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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 14, 2001.

I hereby appoint the Honorable JOHNNY ISAKSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Scott A. Dornbush, Van and Ben Wheeler United Methodist Churches, Van, Texas, offered the following prayer:

Almighty God, fountain of all wisdom, guide and direct us in the work before us.

Help us to remember that the Stars and Stripes of our flag represent the needs of a great and diverse people as well as the sacrifice of many who have made possible the freedom we enjoy.

Grant to us Your wisdom as we seek to bring comfort to those suffering the pain of poverty, conviction to those knowing the apathy of affluence, and freedom to those whose path is obstructed. Tune our ears this day, not only to the cry of the mighty, but also to the muffled silence of those without voice. May the work of our hands insure justice for all.

Bless our President and the United States of America. 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 gentleman from Maryland (Mr. CARDIN) come forward and lead the House in the Pledge of Allegiance.

Mr. CARDIN 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.

MESSAGE FROM THE SENATE

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

S. 1029. An act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 for the manufactured housing program.

REVEREND SCOTT DORNBUSH

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

Mr. HALL of Texas. Mr. Speaker, it is my privilege to recognize again the Reverend Scott Dornbush of Van, Texas in my district who offered the opening prayer as our guest chaplain today.

Reverend Dornbush has served as pastor of the Van, Texas and Ben Wheeler, Texas United Methodist Churches since 1997. Each Sunday, Reverend Dornbush delivers three sermons, two in Van and one in Ben Wheeler, which is 10 miles away. As he says with good humor, ''That's the way it's done in East Texas.''

Reverend Dornbush is actively involved in numerous projects that reflect his commitment to the social implications of the Gospel. He has volunteered at crisis centers for abused women and children, initiated counseling groups, and authored and presented a paper on ministering to abusive families.

His churches also reflect his leadership and are well-known for their mission efforts. They provide foods for over 100 families and distribute, and this is unbelievable, over three tons of fresh produce. The churches also offer preschool and child care.

I want to commend Reverend Dornbush and those in his congregation for their efforts in meeting the needs of those in their communities through these service-based programs.

We know from experience that local citizens and local organizations have a better understanding of their communities' needs and how to meet these needs. We know that some of the most successful efforts have been sponsored by our churches and other faith-based groups.

Mr. Speaker, the time has come to include these viable programs in Federal efforts to improve the lives of our citizens, and I look forward to working with my colleagues to make this happen. I am pleased to welcome Reverend Dornbush today.

I want to also express my appreciation for the Guest Chaplain program which provides a vital spiritual link between Washington and our faith-based communities throughout America.

I thank Reverend Dornbush.

COLONEL HUGO S. VALDIVIA

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

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to honor my congressional constituent, Colonel Hugo Valdivia, for

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his 25 years of service to our country in the United States Air Force.

Tomorrow will be Colonel Valdivia's formal retirement at the Pentagon and I wanted us to show our gratitude for his years of dedication to our country.

Colonel Valdivia had recently been at the Pentagon, where he had been handpicked to serve as the Deputy Director for Information Warfare. He serves as the Air Force Advisor on the National Security Panels to the Defense Science Board and the Joint Chiefs of Staff's Quadrennial Review of military missions and forces structure.

During his distinguished career, Colonel Valdivia has received numerous accolades, including being selected by the National Security Agency as a finalist in a worldwide competition for information security accomplishments.

The Colonel has also been the Chief of the Information Assurance Division for the U.S. European Command. In addition, Colonel Valdivia was the Director for Computer Operations and Software Development for NORAD.

Please join me in showing Colonel Valdivia our gratitude for his sterling service to our country. He joins us here today with his family.

FLAG DAY

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

Mr. CARDIN. Mr. Speaker, today marks the 224th birthday of the United States flag. The Stars and Stripes represents our spirit as a Nation, our unity as people, and our commitment to democracy throughout the world.

Today, Americans will pause for a moment as they reflect on this great Nation. I am proud that my district includes Fort McHenry. Tonight at 7 o'clock, at this historic site, the people of Baltimore will join in the National Pause for the Pledge.

It is only fitting that we honor our flag and the song that has captured its glory. Fort McHenry is the site where Francis Scott Key immortalized our flag. In writing ''The Star Spangled Banner,'' he captured the determination of this great Nation to defeat the British during the War of 1812.

This morning, I was honored to have the opportunity to lead the House of Representatives in the Pledge of Allegiance. I urge every Member and all Americans to join me in paying tribute to this great symbol of liberty, justice and democracy and join the people of Baltimore by pausing at 7 o'clock this evening to honor our flag.

FATHER'S DAY

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

Mr. PITTS. Mr. Speaker, on Sunday, millions of Americans will be taking dad out for dinner to celebrate Father's Day. Father's Day is the one day every year that we set aside to say thank you to the men who raised us, taught us to fish, to play baseball, taught us to know right from wrong.

But there is a sad side to Father's Day as well. See, everyone has a father, but not everyone has a dad. In fact, fatherhood is in real trouble in America today. One-third of the children in America today do not live with their father, and one-third of all American children live in a house without an adult male.

Since 1960, the percentage of single parent families has grown 248 percent. What is the result: 226 percent increase in violent crime, 430 percent increase in out-of-wedlock teen pregnancy, sadly 134 percent increase in teen suicides. Now an absent father is not the only reason so many kids are in trouble. But can anyone doubt that it is at least part of the reason?

All the absent fathers and all the deadbeat dads in America should think hard this weekend about the role they could be playing in the lives of their children. A father's job is an important one. We should all remember that.

WE DO NOT NEED CHARITY, WE NEED ENERGY REGULATION

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

Mr. SHERMAN. Mr. Speaker, in 1999, California paid $7 billion for electrical generation. A year later, last year, we paid $32.5 billion for the same amount of electricity. Today, with conservation efforts, we will use no more electricity than we did 2 years ago, but we will pay 50, 60 or $70 billion for the same number of electrons. This is because so many turbines in California are, quote, closed for maintenance.

If my colleagues will see this chart, they will see that roughly 10,000 megawatts, one-fifth of everything California needs, is shut down in excessive maintenance. Why? Because the independent energy wholesalers know that by closing some turbines for maintenance, they can drive the price of other kilowatts 10 times, 20 times, sometimes 50 times higher than the fair price.

The answer is the Hunter-Eshoo bill, which will restore for at least a couple of years the regulation necessary to take the profit out of manipulation. We do not need charity. We need regulation.

FLAG DAY

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

Mr. GIBBONS. Mr. Speaker, today we celebrate and pay tribute to our Nation's flag and all that it symbolizes. While our Nation and Old Glory itself has grown and changed over the past two centuries, the Stars and Stripes continue to represent the same ideals, freedoms, and liberties which we all cherish.

It is a symbol of our Nation and serves as a reminder of our historic struggles for independence. Moreover, the United States flag embodies the hopes and dreams of people around the world. To millions, Old Glory symbolizes the American dream, the dream of having the freedom and opportunity to accomplish anything.

So as we continue on with our business today, let us each take an extra moment to recognize Old Glory because we are all truly blessed to live under the freedoms and liberty for which the Stars and Stripes stand.

CHINESE MISSILES BUILT WITH AMERICAN TAXPAYER DOLLARS

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

Mr. TRAFICANT. Mr. Speaker, the constituents of the gentleman from Idaho (Mr. SIMPSON) were honored to visit our Marine base at Quantico. They even got a gift. The token gift is a Communist-made calculator with ''Marines'' printed on one side and ''Made in China'' printed on the other.

Unbelievable. First, the Pentagon buys boots made in China. Now the Pentagon buys Communist gifts made in China. What is next? Generals and missiles made in China?

This is not the Marine Corps to blame, nor the fine Marines like Oliver North. It is the bureaucrats at the Pentagon, and they should be stone-cold fired.

I have asked for an investigation. My colleagues should join me. Enough is enough.

I yield back the fact, while we celebrate Flag Day in our great country, China has missiles pointed at us that were built with money taken from U.S. taxpayers/paychecks.

ENERGY POLICY

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

Mr. RYUN of Kansas. Mr. Speaker, I rise today to call on all of us to work together to find long-term solutions to our energy problems. The energy crunch affects all of us from the farmer who pays more for diesel fuel to families who are on summer vacation.

After 8 years of neglect towards our national energy policy, we find ourselves trying to deal with higher costs, at the same time looking for long-term solutions.

President Bush's plan for our energy policy is forward thinking and sensible. His plan focuses both on our need for conservation and our need for increasing energy sources. Best of all, the plan addresses these needs without sacrificing our way of life or the environment.

As we move forward, let us look to what John Foster Dulles once said, ''The measure of success is not whether you have a tough problem to deal with, but whether it is the same problem you had last year.''

The sooner we act on a comprehensive energy policy, the sooner we will find relief.

REPUBLICANS LOSE IN THE COURT OF PUBLIC OPINION ON ENERGY ISSUES

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

Mr. DEFAZIO. Mr. Speaker, after pushing through President Bush's budget cuts cutting energy conservation by 21 percent and renewable energy by 35 percent, fighting tooth and nail against reasonable controls and Federal regulation of price gouging and market manipulation in the western U.S., offering a so-called energy plan that James Watt wholeheartedly supported, saying, hey, 20 years later, it looks like they dusted off our old work.

Well, it might play well in the board rooms of my Republican friends' campaign contributors, with the energy conglomerates, but they know they are losing in the court of public opinion.

□ 1015

So somehow they are going to try a new tack, and I quote: ''Congressional Republican leaders have issued dire, albeit private, warnings to the energy industry that they may not be able to block legislation imposing caps on prices or other measures designed to give the Federal Government a greater role in setting rates for wholesale energy, oil or natural gas.''

So the response is spin and advertising. We are offering a real alternative, an alternative that will give relief to the people in the western U.S. from price gouging and market manipulation, an alternative that will give the American people a sustainable, renewable energy future with conservation and renewable resources.

This is a stark choice for the American people: hot air or a real energy policy that benefits consumers.

HAPPY BIRTHDAY TO THE U.S. ARMY

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, since its birth on June 14, 1775, the United States Army has played a vital role in the growth and development of the American Nation. It won the new Republic's independence in an arduous 8-year struggle against Great Britain. The Army has repeatedly defended America against both internal and external threats, from the War of 1812 through the tremendous battles that finally rid the world of Nazi totalitarianism, Japanese imperialism, and communism.

From the beginning, the U.S. Army has also been involved with internal improvements: natural disaster relief, economic assistance, domestic order, and a host of other contingencies. Our Army has a proud tradition and continues to draw great satisfaction from knowing that when the Nation was in need, it answered the call.

Mr. Speaker, I am honored to stand here today and wish the men and women of the U.S. Army a very happy birthday.

CALIFORNIA'S ENERGY CRISIS

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

Mr. GEORGE MILLER of California. Mr. Speaker, after months and months of watching the Bush administration do nothing to help the California consumers and the California business community with the price gouging that is going on in energy, after months of having the White House act as the puppet of the oil industry, after months of watching an administration that is full of ex-oil industry executives give private meetings to the oil industry on their energy plan, and seeing the very people who are making the decisions about our energy future hold stock in the energy companies, after months of this kind of activity and insensitivity to the Western energy users in this country, the Republicans and the White House now understand that the American people are no longer going to continue to accept this administration doing nothing about the price gouging that is going on in the western United States with respect to energy while at the same time those very energy executives of the companies that are punishing the California consumer, punishing California businesses, punishing the workers and punishing our economy are cashing stock options worth $300 million as they gouge the people in the western United States.

PORKER OF THE WEEK AWARD

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

Mr. HEFLEY. Mr. Speaker, only a few months after the U.S. Postal Service hiked its first-class postal rates, the quasi-Federal agency is again set to increase mail costs, this time by as much as 25 to 30 percent. The hike comes in response to the agency's projected loss of $2 to $3 billion this year and a report from its own Inspector General that the agency loses approximately $1.4 billion per year in waste and abuse.

Charges of abuse at the Post Office include $200 million worth of lavish executive parties, large-scale junkets, high-priced publicity campaigns, and generous employee bonuses. The agency managed to rack up $9.3 billion in debt by the end of fiscal year 2000, but has yet to put in place a repayment program for that debt.

The American consumer should not have to pay increased mail costs to repair inefficiency and waste at the Postal Service. The Postal Service gets my porker of the week award.

TRIBUTE TO HOLLY WARLICK

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

Mr. DUNCAN. Mr. Speaker, I rise today to pay tribute and offer my congratulations to my friend Holly Warlick. Holly was inducted this past weekend into the Women's Basketball Hall of Fame in our hometown of Knoxville, Tennessee.

Holly was the first athlete, male or female, to have her number retired at the University of Tennessee. She was a star point guard and 4-year starter for the Lady Vols from 1977 to 1980. She was placed on the U.S. Olympic team that year and later played in the first women's professional basketball league.

For the past 16 years, she has been an assistant coach to the great Pat Head Summit, and the Lady Vols basketball team has won many national championships and is always ranked among the Nation's top.

Holly Warlick is an inspiration to young girls and women everywhere and one of our finest citizens. I congratulate her on a well-deserved honor, her induction into the Women's Basketball Hall of Fame.

FERC'S INADEQUATE RESPONSE TO WESTERN ENERGY CRISIS

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

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to share with my colleagues a letter I received from William Massey, one of the three commissioners from the Federal Energy Regulatory Commission.

FERC has a responsibility by law to regulate energy prices when they are unjust and unreasonable. Californians spent $7 billion last year on energy. This year, the energy costs were $70 billion. The same thing is happening in Oregon. Can somebody explain to me what is just and reasonable about that?

This administration has taken a hands-off approach to the energy crisis in the West and FERC has shirked its responsibilities to maintain a fair market for consumers. Recently, I, along with my colleagues, wrote to FERC commissioners and ask they take steps to ensure that energy prices out west are just and reasonable. So I would like to take a second and read Commissioner Massey's short but appropriate response.

He says, ''Thank you for writing to express disappointment with FERC's wholly inadequate response to the Western energy crisis. My response will be brief. I completely agree with you. The commission must take additional steps to ensure that prices out west are just and reasonable.''

I just wish this administration would do the same.

FATHER'S DAY

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

Mr. McINTYRE. Mr. Speaker, what happens to the family matters. It matters to our children, it matters to our parents, it matters to our communities, it matters, yes, to our Nation.

This Sunday, families all across America will come together and honor the role that fathers play in our families and in our society. I am grateful for the role that my father and his love for my family and me has played in my life. However, for many families, this will be just another Sunday, because there is no dad at home. In fact, an estimated 24.7 million children in this country live absent their biological fathers for whatever reason.

As Members of the people's House, each of us should do all we can to promote policies and support programs that are father-friendly and that help families that may not have a father.

First, we should pass H.R. 1300, the Responsible Fatherhood Act, that would provide resources to encourage responsible fatherhood and fund programs for local government, nonprofits, and religious and charitable organizations to help children.

Second, we should all take time to lend our hands and our hearts to those children that may not have a dad around. Read to them, take them to a ball game, take time to talk, or just take time to listen.

May God bless our fathers, especially this Father's Day.

PROVIDING FOR CONSIDERATION OF H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 161 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 161

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 1088) to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes. The bill shall be considered as read for amendment. In lieu of the amendment recommended by the Committee on Financial Services now printed in the bill, the amendment in the nature of a substitute printed in the Congressional Record and numbered 1 pursuant to clause 8 of rule XVIII shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services; (2) the further amendment printed in the Congressional Record and numbered 2 pursuant to clause 8 of rule XVIII, if offered by Representative LaFalce of New York or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 161 is a modified closed rule providing for the consideration of H.R. 1088, the Investor and Capital Markets Fee Relief Act. This bill is designed to provide tax relief to investors and market participants by reducing or eliminating many of the user fees imposed by the Securities and Exchange Commission for buying and selling securities.

H. Res. 161 provides for 1 hour of debate equally divided and controlled by the chairman and the ranking minority member of the Committee on Financial Services. Upon the adoption of this rule, an amendment in the nature of a substitute, printed in the CONGRESSIONAL RECORD and offered by the gentleman from Ohio (Mr. OXLEY), chairman of the Committee on Financial Services, will be considered as adopted in lieu of the amendment originally recommended by the Committee on Financial Services.

The rule also makes in order a substitute amendment for the minority, offered by the gentleman from New York (Mr. LAFALCE) or his designee, which can be debated for up to 1 hour, evenly divided.

The rule also waives all points of order against consideration of both amendments. Finally, the rule provides for one motion to recommit with or without instructions as is the right of the minority.

Mr. Speaker, the purpose of H.R. 1088 is to provide significant tax relief to millions and millions of investors and market participants. When it was originally established, the SEC was supposed to be a user fee-funded entity. The SEC currently taxes investors and companies trading in securities with user fees, using the monies generated by these fees to fund its enforcement of Federal securities' laws and regulations.

As investments in mutual funds, 401(k) plans, and retirement funds have dramatically increased over the last 20 years, the SEC's current fee schedule has unfortunately not been changed to reflect these new circumstances. This has, in turn, created a situation in which billions of dollars in SEC fees, above and beyond the level needed to fund its enforcement activities, are being used for other purposes. H.Res. 161 modernizes the fee schedule, saving investors and companies $14 billion over the next 10 years by significantly reducing five SEC taxes on securities transactions.

The bill provides much needed relief for investors and companies by also terminating the mandatory application fees and reducing registration fees. Also, the new fee schedule gives the SEC the necessary funding to continue enforcing our laws while retaining top quality employees.

□ 1030

Mr. Speaker, I hope my friends on both sides of the aisle will join me in supporting this legislation to return a greater portion of the Federal Government's excess funds to our investors so they can use these moneys as they see fit.

The Committee on Rules approved this rule by voice vote yesterday, and I urge my colleagues to support it so we may proceed with debate and consideration of this bipartisan bill.

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

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

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume; and I thank my colleague from Georgia (Mr. LINDER) for yielding me the customary time.

Mr. Speaker, this is a modified closed rule that will allow for the consideration of H.R. 1088, the Investor and Capital Markets Fee Relief Act.

Under this restrictive rule, a Democratic substitute may be offered on the floor by the gentleman from New York (Mr. LAFALCE). Unfortunately, no other amendments may be offered.

The underlying bill reduces fees levied by the Securities and Exchange Commission for stock-related transactions. This will result in a loss of about $14 billion in Federal receipts between the years 2002 and 2011. This general budget effect is a large revenue depletion. In the year 2002 alone, CBO estimates this will be more than $1.3 billion. It is a drain on the treasury.

The reduction of fees is motivated by an increase in collections, which is the result of greater stock market activity in the last few years. It makes perfect sense to reduce fees that might benefit individual investors. In fact, the Democratic substitute would do just that. However, given the uncertain future of financial markets and the unforeseeable need for regulation and enforcement, it seems imprudent to reduce revenues by such a large amount as this bill does. Moreover, minority

members of the Committee on Financial Services warn that these cuts could ultimately result in cuts in important government programs like Head Start, medical research, and transportation and infrastructure improvements.

A more sound approach would be to examine the long-term needs of the Securities and Exchange Commission as well as other government activities involved with protecting the securities markets, including the Federal Bureau of Investigation inquiries, Department of Justice criminal prosecutions, and any other Federal resources needed to prosecute securities cases. Only then would we have a sound basis for establishing an appropriate fee reduction.

Mr. Speaker, for these reasons, I urge my colleagues to support the Democratic substitute at the proper time.

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

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services.

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

Mr. OXLEY. Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER), the gentleman from California (Mr. DREIER), and the rest of the Committee on Rules for crafting a very effective rule; a rule that allows the gentleman from New York (Mr. LAFALCE), the ranking member of the Committee on Financial Services, to offer his substitute amendment for consideration by the House.

Congress has authorized the Securities and Exchange Commission to impose user fees on investors and market participants. The fee, intended to fund Securities and Exchange Commission operations, has turned into a cash cow for the U.S. Treasury. The government now collects fee revenues that far exceed the operating cost of the Securities and Exchange Commission. In fiscal year 2002, actual Securities and Exchange Commission collections reached a staggering $2.27 billion. That is over six times the Securities and Exchange Commission's $377 million budget.

H.R. 1088, the Investor and Capital Markets Fee Relief Act, addresses this excess collections problem. It is important legislation that returns some $14 billion over the next 10 years to America's investors and those seeking access to our markets. It reduces or eliminates all of the excess securities fees in a responsible way, holding the appropriators harmless and ensuring that the Securities and Exchange Commission has a long-term stable funding source for its important mission of protecting investors and promoting capital formation.

Mr. Speaker, the legislation introduced by my good friend, the gentleman from New York (Mr. FOSSELLA), will help America's nearly 100 million investors save and invest for college, retirement, or simply for a better life.

H.R. 1088 includes pay parity for the Securities and Exchange Commission staff. The SEC is experiencing severe recruiting and retention problems. In the last 3 years, more than 1,000 employees, over one-third of the agency staff, have left the agency. The Securities and Exchange Commission's overall attrition rate is more than twice the government average.

In an effort to combat this staffing crisis, the Securities and Exchange Commission has explored every available tool, including recruitment bonuses, retention allowances, emergency child care and other measures. There is no justification whatsoever for paying Securities and Exchange Commission staff 24 to 39 percent less than the Federal banking regulators, especially in light of the passage of Gramm-Leach-Bliley which requires the SEC staff to work side by side with the Federal banking regulators.

Mr. Speaker, I urge my colleagues to support this very fair rule, and support this needed legislation. Let us give money back to investors and strengthen the Securities and Exchange Commission at the same time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise in support of the rule and the underlying bill. Investors and capital market participants were overcharged $9.2 billion over the last 10 years in fees that support the operations of the Securities and Exchange Commission. These overcharges will grow to $14 billion over the next 10 years without fee relief now.

For fiscal year 2001, the Securities and Exchange Commission's budget is $423 million, but the agency is set to collect $2.5 billion in fees, over 6 times the Securities and Exchange Commission's budget. Congress created the fee structure so that the operating costs of the Securities and Exchange Commission would be funded by those benefiting from securities regulation. The fees have evolved into a tax on investors which was not the original intent of Congress.

The Investor and Capital Markets Fee Relief Act reduces the fees on stock transactions, mergers, tender offers and new issues that investors and market participants pay to support the Securities and Exchange Commission. These fees, many of which are paid by individual investors and pension funds, were never intended to grow so dramatically. At the same time, the legislation provides pay parity for Securities and Exchange Commission employees.

Mr. Speaker, the Investor and Capital Markets Fee Relief Act will save $14 billion that can potentially be reinvested in the capital markets. It allows fees to be readjusted if the Securities and Exchange Commission ever faces a funding shortage. It provides pay parity for Securities and Exchange Commission employees. The agency has lost one-third of its employees in the last 3 years, and is truly facing a staffing crisis.

Mr. Speaker, this particular bill passed the Committee on Financial Services and the full Senate by unanimous consent. I urge my colleagues to support both the rule and the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time; and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I urge my colleagues to support this rule so we can move on to debate on this important bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 418, nays 1, not voting 13, as follows:

[Roll No. 162]

YEAS—418

Abercrombie	Brady (PA)	Davis (FL)
Ackerman	Brady (TX)	Davis (IL)
Aderholt	Brown (OH)	Davis, Jo Ann
Akin	Brown (SC)	Davis, Tom
Allen	Bryant	Deal
Andrews	Burr	DeFazio
Armey	Burton	Delahunt
Baca	Buyer	DeLauro
Bachus	Callahan	DeLay
Baird	Calvert	DeMint
Baker	Camp	Deutsch
Baldacci	Cannon	Diaz-Balart
Baldwin	Cantor	Dicks
Ballenger	Capito	Dingell
Barcia	Capps	Doggett
Barr	Capuano	Dooley
Barrett	Cardin	Doolittle
Bartlett	Carson (OK)	Doyle
Barton	Castle	Dreier
Bass	Chabot	Duncan
Becerra	Chambliss	Dunn
Bentsen	Clay	Edwards
Bereuter	Clayton	Ehlers
Berkley	Clement	Ehrlich
Berman	Clyburn	Emerson
Berry	Coble	English
Biggert	Collins	Eshoo
Bilirakis	Combest	Etheridge
Bishop	Condit	Evans
Blagojevich	Conyers	Everett
Blumenauer	Cooksey	Farr
Blunt	Costello	Fattah
Boehlert	Cox	Filner
Boehner	Coyne	Flake
Bonilla	Cramer	Fletcher
Bonior	Crane	Foley
Bono	Crenshaw	Ford
Borski	Crowley	Fossella
Boswell	Culberson	Frank
Boucher	Cunningham	Frelinghuysen
Boyd	Davis (CA)	Gallegly

Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—1

Kanjorski

NOT VOTING—13

Brown (FL)
Carson (IN)
Cubin
Cummings
DeGette
Engel
Ferguson
Frost
Houghton
Johnson, E. B.
Jones (OH)
Whitfield
Young (AK)

□ 1103

Mr. BURTON of Indiana and Mrs. NORTHUP changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Ms. CARSON of Indiana. Mr. Speaker, for reasons beyond my control, the voting machine would not accept my voting card on Thursday, June 14, 2001, and therefore, I was unable to vote on rollcall vote 162. I alerted the Speaker pro tempore, Mr. QUINN, to the problem, but by the time I reached the well, the voting was closed. Had I been able to cast my vote I would have voted ''yea''.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the resolution.

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

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 408, noes 12, not voting 12, as follows:

[Roll No. 163]

AYES—408

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Filner
Flake
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (FL)

NOES—12

Burton
Costello
DeFazio
Frank
Hilliard
Kanjorski

LaFalce	Taylor (MS)	Waters
Rahall	Visclosky	Wu

NOT VOTING—12

Brown (FL)	Frost	Jones (OH)
Cubin	Houghton	Velazquez
DeGette	John	Whitfield
Ferguson	Johnson, E. B.	Young (AK)

□ 1114

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1319

Ms. HART. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1319.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Pennsylvania?

There was no objection.

COMMUNICATION FROM THE HONORABLE DICK ARMEY, MAJORITY LEADER

The SPEAKER pro tempore laid before the House a communication from the Honorable DICK ARMEY, Majority Leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 12, 2001.

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

DEAR MR. SPEAKER: Pursuant to 20 U.S.C. 4703, I would like to appoint Mr. Stump of Arizona to the board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation.

Sincerely,

DICK ARMEY,
Member of Congress.

INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

Mr. OXLEY. Mr. Speaker, pursuant to House Resolution 161, I call up the bill (H.R. 1088) to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 161, the bill is considered read for amendment.

The text of H.R. 1088 is as follows:

H.R. 1088

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 ''Investor and Capital Markets Fee Relief Act''.

SEC. 2. IMMEDIATE TRANSACTION FEE REDUCTIONS.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking ''1/300 of one percent'' each place it appears in subsections (b) and (d) and inserting ''$12 per $1,000,000'';

(2) in the first sentence of subsection (b), by striking '', except that'' and all that follows through the end of such sentence;

(3) in paragraph (1) of subsection (d), by striking '', except that'' and all that follows through the end of such paragraph;

(4) in subsection (e), by striking ''$0.02'' and inserting ''$0.0072''; and

(5) by adding at the end the following new subsection:

''(i) PRO RATA APPLICATION.—The rates per $1,000,000 required by this section shall be applied pro rata to amounts and balances equal to less than $1,000,000.''.

SEC. 3. REVISION OF SECURITIES TRANSACTION FEE PROVISIONS; ADDITIONAL FEE REDUCTIONS.

(a) POOLING AND ALLOCATION OF COLLECTIONS.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended—

(1) in subsection (b)—

(A) by striking ''Every'' and inserting ''Subject to subsection (j), each''; and

(B) by striking the last sentence;

(2) by striking subsection (c);

(3) in subsection (d)—

(A) by striking paragraphs (2) and (3);

(B) by striking the following:

''(d) OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.—

''(1) COVERED TRANSACTIONS.—Each national securities''

and inserting the following:

''(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED AND LAST-SALE-REPORTED SECURITIES.—Subject to subsection (j), each national securities'';

(C) by inserting ''registered on a national securities exchange or'' after ''security futures products)''; and

(D) by striking '', excluding any sales for which a fee is paid under subsection (c)'';

(4) in subsection (e)—

(A) by striking ''except that for fiscal year 2007'' and all that follows through the end of such subsection and inserting the following: ''except that for fiscal year 2007 and each succeeding fiscal year such assessment shall be equal to $0.0042 for each such transaction.'';

(5) in subsection (f), by striking ''DATES FOR PAYMENT OF FEES.—The fees required'' and inserting ''DATES FOR PAYMENTS.—The fees and assessments required'';

(6) by redesignating subsections (e) through (i) (as added by section 2(5)) as subsections (d) through (h), respectively;

(7) by adding at the end the following new subsection:

''(i) DEPOSIT OF FEES.—

''(1) OFFSETTING COLLECTIONS.—Fees collected pursuant to subsections (b), (c), and (d) for any fiscal year—

''(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission; and

''(B) except as provided in subsection (k), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

''(2) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to subsections (b), (c), and (d) for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.''.

(b) ADDITIONAL REDUCTIONS OF FEES.—

(1) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended by adding after subsection (i) (as added by subsection (a)(7)) the following new subsections:

''(j) RECAPTURE OF PROJECTION WINDFALLS FOR FURTHER RATE REDUCTIONS.—

''(1) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the target offsetting collection amount for such fiscal year.

''(2) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for all of such fiscal years to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this section in fiscal year 2012 (including assessments collected under subsection (d)) equal to the target offsetting collection amount for fiscal year 2011.

''(3) REVIEW AND EFFECTIVE DATE.—An adjusted rate prescribed under paragraph (1) or (2) and published under subsection (g) shall not be subject to judicial review. Subject to subsections (i)(1)(B) and (k)—

''(A) an adjusted rate prescribed under paragraph (1) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

''(B) an adjusted rate prescribed under paragraph (2) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(k) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect (as offsetting collections) the fees and assessments under subsections (b), (c), and (d) at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted.

''(l) DEFINITIONS.—For purposes of this section:

''(1) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

"Fiscal year:	Target offsetting collection amount
2002	$585,720,000
2003	$679,320,000
2004	$822,240,000
2005	$976,320,000
2006	$1,148,040,000
2007	$880,880,000
2008	$892,080,000
2009	$1,023,120,000
2010	$1,161,440,000
2011	$1,321,040,000

''(2) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES.—The baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, and security futures products) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making

projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(2) CONFORMING AMENDMENT.—Section 31(g) of such Act (as redesignated by subsection (a)(6) of this section) is amended by inserting before the period at the end the following: ''not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such fees are based.''.

SEC. 4. REDUCTION OF REGISTRATION FEES.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking paragraphs (2) through (5) and inserting the following:

''(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee at a rate that shall be equal to $125 per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2003 and any succeeding fiscal year such fee shall be adjusted pursuant to paragraph (5) or (6).

''(3) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

''(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission; and

''(B) except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

''(4) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

''(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (2) for such fiscal year to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for such fiscal year, is reasonably likely to produce aggregate fee collections under this subsection that are equal to the target offsetting collection amount for such fiscal year.

''(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (2) for all of such fiscal years to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this subsection in fiscal year 2012 equal to the target offsetting collection amount for fiscal year 2011.

''(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances equal to less than $1,000,000.

''(8) REVIEW AND EFFECTIVE DATE.—An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (3)(B) and (9)—

''(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

''(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted.

''(10) PUBLICATION.—The Commission shall publish in the Federal Register notices of the rate applicable under this subsection and under sections 13(e) and 14(g) for each fiscal year not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such rate is based.

''(11) DEFINITIONS.—For purposes of this subsection:

''(A) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

''Fiscal year:	Target offsetting collection amount
2002	$512,500,000
2003	$589,380,000
2004	$650,385,000
2005	$790,075,000
2006	$949,050,000
2007	$214,200,000
2008	$233,700,000
2009	$284,115,000
2010	$333,840,000
2011	$394,110,000

''(B) BASELINE ESTIMATE OF THE AGGREGATE MAXIMUM OFFERING PRICES.—The baseline estimate of the aggregate maximum offering prices for any fiscal year is the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

SEC. 5. FEES FOR STOCK REPURCHASE STATEMENTS.

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended

(1) in paragraph (3), by striking ''a fee of 1/50 of 1 per centum of the value of securities proposed to be purchased'' and inserting ''a fee at a rate that, subject to paragraphs (5) and (6), is equal to $125 per $1,000,000 of the value of securities proposed to be purchased'';

(2) by inserting after paragraph (3) the following new paragraphs:

''(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

''(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

''(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (3) for all of such fiscal years to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

''(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances equal to less than $1,000,000.

''(8) REVIEW AND EFFECTIVE DATE.—An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

''(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

''(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted.

''(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.''.

SEC. 6. FEES FOR PROXY SOLICITATIONS AND STATEMENTS IN CORPORATE CONTROL TRANSACTIONS.

Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended—

(1) in paragraphs (1) and (3), by striking ''a fee of 1/50 of 1 per centum of'' each place it appears and inserting ''a fee at a rate that, subject to paragraphs (5) and (6), is equal to $125 per $1,000,000 of'';

(2) by redesignating paragraph (4) as paragraph (11); and

(3) by inserting after paragraph (3) the following new paragraphs:

''(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

''(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates required by paragraphs (1) and (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

''(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates required by paragraphs (1) and (3) for all of such fiscal years to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

''(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances equal to less than $1,000,000.

''(8) REVIEW AND EFFECTIVE DATE.—An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

''(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

''(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted.

''(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.''.

SEC. 7. TRUST INDENTURE ACT FEE.

Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking ''Commission, but, in the case'' and all that follows and inserting ''Commission.''.

SEC. 8. PAY PARITY PROVISIONS.

(a) SECURITIES AND EXCHANGE COMMISSION EMPLOYEES.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(1) by striking paragraphs (1) and (2) and by inserting the following:

''(1) APPOINTMENT, COMPENSATION, AND BENEFITS.—

''(A) IN GENERAL.—The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under this Act.

''(B) RATES OF PAY.—Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

''(C) ADDITIONAL COMPENSATION AND BENEFITS.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation.

''(2) INFORMATION; COMPARABILITY.—In establishing and adjusting schedules of compensation and additional benefits for employees of the Commission, which are to be determined solely by the Commission under this subsection, the Commission—

''(A) shall consult with and inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

''(B) shall inform the Congress of such compensation and benefits; and

''(C) shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(b) TECHNICAL AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''or'' after the semicolon;

(B) in subparagraph (D), by inserting ''or'' after the semicolon; and

(C) by adding at the end of the following:

''(E) the Securities and Exchange Commission.''.

(2) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''or'' after the semicolon;

(B) in paragraph (3), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) section 4(b) of the Securities Exchange Act of 1934.''.

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 2001.

(b) PAY PARITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 8 shall take effect on the date of enactment of this Act.

(2) EXCEPTION.—The amendments made by section 8(b)(1) shall take effect as of such date as the Securities and Exchange Commission shall (by order published in the Federal Register) prescribe, but in no event later than 1 year after the date of enactment of this Act.

The SPEAKER pro tempore. In lieu of the amendment recommended by the Committee on Financial Services printed in the bill, the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD and numbered 1 is adopted.

The text of H.R. 1088, as amended, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Investor and Capital Markets Fee Relief Act''.

SEC. 2. IMMEDIATE TRANSACTION FEE REDUCTIONS.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking ''1/300 of one percent'' each place it appears in subsections (b) and (d) and inserting ''$15 per $1,000,000'';

(2) by striking ''and security futures products'' each place it appears in such subsections and inserting ''security futures products, and options on securities indexes (excluding a narrow-based security index)'';

(3) in the first sentence of subsection (b), by striking '', except that'' and all that follows through the end of such sentence and inserting a period;

(4) in paragraph (1) of subsection (d), by striking '', except that'' and all that follows through the end of such paragraph and inserting a period;

(5) in subsection (e), by striking ''$0.02'' and inserting ''$0.009''; and

(6) by adding at the end the following new subsection:

''(i) PRO RATA APPLICATION.—The rates per $1,000,000 required by this section shall be applied pro rata to amounts and balances of less than $1,000,000.''.

SEC. 3. REVISION OF SECURITIES TRANSACTION FEE PROVISIONS; ADDITIONAL FEE REDUCTIONS.

(a) POOLING AND ALLOCATION OF COLLECTIONS.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended—

(1) in subsection (b)—

(A) by striking ''Every'' and inserting ''Subject to subsection (j), each''; and

(B) by striking the last sentence;

(2) by striking subsection (c);

(3) in subsection (d)—

(A) by striking paragraphs (2) and (3);

(B) by striking the following:

''(d) OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.—

''(1) COVERED TRANSACTIONS.—Each national securities''

and inserting the following:

''(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED AND LAST-SALE-REPORTED SECURITIES.—Subject to subsection (j), each national securities'';

(C) by inserting ''registered on a national securities exchange or'' after ''narrow-based security index))'' (as added by section 2(2)); and

(D) by striking '', excluding any sales for which a fee is paid under subsection (c)'';

(4) in subsection (e), by striking ''except that for fiscal year 2007'' and all that follows through the end of such subsection and inserting the following: ''except that for fiscal year 2007 and each succeeding fiscal year such assessment shall be equal to $0.0042 for each such transaction.'';

(5) in subsection (f), by striking ''DATES FOR PAYMENT OF FEES.—The fees required'' and inserting ''DATES FOR PAYMENTS.—The fees and assessments required'';

(6) by redesignating subsections (e) through (i) (as added by section 2(5)) as subsections (d) through (h), respectively;

(7) by adding at the end the following new subsection:

''(i) DEPOSIT OF FEES.—

''(1) OFFSETTING COLLECTIONS.—Fees collected pursuant to subsections (b), (c), and (d) for any fiscal year—

''(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission; and

''(B) except as provided in subsection (k), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

''(2) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to subsections (b), (c), and (d) for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.''.

(b) ADDITIONAL REDUCTIONS OF FEES.—

(1) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended by adding after subsection (i) (as added by subsection (a)(7)) the following new subsections:

''(j) RECAPTURE OF PROJECTION WINDFALLS FOR FURTHER RATE REDUCTIONS.—

''(1) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the target offsetting collection amount for such fiscal year.

''(2) MID-YEAR ADJUSTMENT.—For each of the fiscal years 2002 through 2011, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year, the baseline estimate of the aggregate dollar volume of sales used under paragraph (1) for such fiscal year (or $48,800,000,000,000 in the case of fiscal year 2002) is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, no later than such March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted

rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees collected during such 5-month period and assessments collected under subsection (d)) that are equal to the target offsetting collection amount for such fiscal year. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by subsection (l)(2).

''(3) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for all of such fiscal years to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this section in fiscal year 2012 (including assessments collected under subsection (d)) equal to the target offsetting collection amount for fiscal year 2011.

''(4) REVIEW AND EFFECTIVE DATE.— In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (1), (2), or (3) and published under subsection (g) shall not be subject to judicial review. Subject to subsections (i)(1)(B) and (k)—

''(A) an adjusted rate prescribed under paragraph (1) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted;

''(B) an adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies; and

''(C) an adjusted rate prescribed under paragraph (3) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 30 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(k) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect (as offsetting collections) the fees and assessments under subsections (b), (c), and (d) at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted.

''(l) DEFINITIONS.—For purposes of this section:

''(1) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

"Fiscal year:	Target offsetting collection amount
2002	$732,000,000
2003	$849,000,000
2004	$1,028,000,000
2005	$1,220,000,000
2006	$1,435,000,000
2007	$881,000,000
2008	$892,000,000
2009	$1,023,000,000
2010	$1,161,000,000
2011	$1,321,000,000

''(2) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES.—The baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes (excluding a narrow-based security index)) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

(2) CONFORMING AMENDMENT.—Section 31(g) of such Act (as redesignated by subsection (a)(6) of this section) is amended by inserting before the period at the end the following: ''not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such fees are based''.

SEC. 4. REDUCTION OF REGISTRATION FEES.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking paragraphs (2) through (5) and inserting the following:

''(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee at a rate that shall be equal to $92 per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2003 and any succeeding fiscal year such fee shall be adjusted pursuant to paragraph (5) or (6).

''(3) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

''(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission; and

''(B) except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

''(4) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

''(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (2) for such fiscal year to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for such fiscal year, is reasonably likely to produce aggregate fee collections under this subsection that are equal to the target offsetting collection amount for such fiscal year.

''(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (2) for all of such fiscal years to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this subsection in fiscal year 2012 equal to the target offsetting collection amount for fiscal year 2011.

''(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000.

''(8) REVIEW AND EFFECTIVE DATE.— In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (3)(B) and (9)—

''(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 5 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

''(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 5 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

''(10) PUBLICATION.—The Commission shall publish in the Federal Register notices of the rate applicable under this subsection and under sections 13(e) and 14(g) for each fiscal year not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such rate is based.

''(11) DEFINITIONS.—For purposes of this subsection:

''(A) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

"Fiscal year:	Target offsetting collection amount
2002	$337,000,000
2003	$435,000,000
2004	$467,000,000
2005	$570,000,000
2006	$689,000,000
2007	$214,000,000
2008	$234,000,000
2009	$284,000,000
2010	$334,000,000
2011	$394,000,000

''(B) BASELINE ESTIMATE OF THE AGGREGATE MAXIMUM OFFERING PRICES.—The baseline estimate of the aggregate maximum offering prices for any fiscal year is the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.''.

SEC. 5. FEES FOR STOCK REPURCHASE STATEMENTS.

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended

(1) in paragraph (3), by striking ''a fee of ⅟₁₀₀ of 1 per centum of the value of securities proposed to be purchased'' and inserting ''a fee at a rate that, subject to paragraphs (5) and (6), is equal to $92 per $1,000,000 of the value of securities proposed to be purchased'';

(2) by inserting after paragraph (3) the following new paragraphs:

''(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9),

shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

''(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

''(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (3) for all of such fiscal years to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

''(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000.

''(8) REVIEW AND EFFECTIVE DATE.— In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

''(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 5 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

''(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 5 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

''(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.''.

SEC. 6. FEES FOR PROXY SOLICITATIONS AND STATEMENTS IN CORPORATE CONTROL TRANSACTIONS.

Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended—

(1) in paragraphs (1) and (3), by striking ''a fee of 1/50 of 1 per centum of'' each place it appears and inserting ''a fee at a rate that, subject to paragraphs (5) and (6), is equal to $92 per $1,000,000 of'';

(2) by redesignating paragraph (4) as paragraph (11); and

(3) by inserting after paragraph (3) the following new paragraphs:

''(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

''(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates required by paragraphs (1) and (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

''(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates required by paragraphs (1) and (3) for all of such fiscal years to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

''(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000.

''(8) REVIEW AND EFFECTIVE DATE.— In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

''(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

''(i) the first day of the fiscal year to which such rate applies; or

''(ii) 5 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

''(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

''(i) the first day of fiscal year 2012; or

''(ii) 5 days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

''(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

''(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.''.

SEC. 7. TRUST INDENTURE ACT FEE.

Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking ''Commission, but, in the case'' and all that follows and inserting ''Commission.''.

SEC. 8. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

''Sec.
''4801. Nonapplicability of chapter 47.
''4802. Securities and Exchange Commission.

''§ 4801. Nonapplicability of chapter 47

''Chapter 47 shall not apply to this chapter.

''§ 4802. Securities and Exchange Commission

''(a) In this section, the term 'Commission' means the Securities and Exchange Commission.

''(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

''(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

''(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

''(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

''(f) This section shall be administered consistent with merit system principles.''.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

''48. Agency Personnel Demonstration Project ..... 4801.''.

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking ''or'' after the semicolon;

(ii) in subparagraph (D), by inserting ''or'' after the semicolon; and

(iii) by adding at the end the following:

''(E) the Securities and Exchange Commission;''.

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking ''or'' after the semicolon;

(ii) in paragraph (3), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(4) section 4802.''.

(2) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

''(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking ''the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation''.

SEC. 9. STUDY OF THE EFFECT OF FEE REDUCTIONS.

(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the ''Office'') shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

(1) consider the various elements of the securities industry directly and indirectly benefitting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

(2) consider the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

(3) include in the interpretation of the term ''investor'' shareholders of entities subject to the fee reductions; and

(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the findings of the study conducted under subsection (a).

SEC. 10. STUDY OF CONVERSION TO SELF-FUNDING.

(a) GAO STUDY REQUIRED.—The Comptroller General shall conduct a study of the impact, implications, and consequences of converting the Securities and Exchange Commission to a self-funded basis. Such study shall include analysis of the following issues:

(1) SEC OPERATIONS.—The impact of such conversion on the Commission's operations, including staff quality, recruitment, and retention.

(2) CONGRESSIONAL OVERSIGHT.—The implications for congressional oversight of the Commission, including whether imposing annual expenditure limitations would be beneficial to such oversight.

(3) FEES.—The likely consequences of the conversion on the rates, collection procedures, and predictability of fees collected by the Commission.

(4) APPROPRIATIONS.—The methods by which the conversion may be accomplished without reducing the availability of offsetting collections for appropriations.

(5) OTHER MATTERS.—Such other impacts, implications, and consequences as the Comptroller General may consider relevant to congressional consideration of the question of such conversion.

(b) SUBMISSION OF REPORT.—The Comptroller General shall submit to the Committees on Financial Services and Government Reform of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate a report on the study required by subsection (a) no later than 180 after the date of enactment of this Act.

(c) DEFINITION.—For the purposes of this section, the term ''self-funded basis'' means that—

(1) an agency is authorized to deposit the receipts of its collections in the Treasury of the United States, or in a depository institution, but such deposits are not treated as Government funds or appropriated monies, and are available for the salaries and other expenses of the Commission and its employees without annual appropriation or apportionment; and

(2) the agency is authorized to employ and fix the salaries and other compensation of its officers and employees, and such salaries and other compensation are paid without regard to the provisions of other laws applicable to officers and employees of the United States.

SEC. 11. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act shall take effect on October 1, 2001.

(b) IMMEDIATE TRANSACTION FEE REDUCTIONS.—The amendments made by section 2 shall take effect on the later of—

(1) the first day of fiscal year 2002; or

(2) 30 days after the date on which a regular appropriation to the Commission for such fiscal year is enacted.

(c) ADDITIONAL EXCEPTIONS.—The authorities provided by section 6(b)(9) of the Securities Act of 1933 and sections 13(e)(9), 14(g)(9) and 31(k) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

The SPEAKER pro tempore. After 60 minutes of debate on the bill, as amended, it shall be in order to consider the further amendment printed in the CONGRESSIONAL RECORD and numbered 2 if offered by the gentleman from New York (Mr. LAFALCE) or his designee, shall be considered read and shall be debatable for 1 hour, equally divided and controlled by the proponent and the opponent.

The gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

□ 1115

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1088.

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

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. BURTON) and ask unanimous consent that he be permitted to control that time.

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

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am pleased today to bring to the floor H.R. 1088, the Investor and Capital Markets Fee Relief Act. This legislation returns excessive Securities and Exchange Commission fees, $14 billion over the next 10 years, to America's investors and those seeking access to our markets.

Introduced by my good friend, the gentleman from New York (Mr. FOSSELLA), an important Member of the Committee on Financial Services, H.R. 1088 reduces or eliminates all of the securities fees in a responsible way by holding the appropriators harmless and ensuring that the SEC has a long-term stable funding source for its important mission of protecting investors and promoting capital formation.

Contrary to the explicit intent of the Congress, the government now collects fee revenues that far exceed the operating costs of the SEC. In fiscal year 2000, actual SEC fee collections reached a staggering $2.27 billion, over six times the SEC's $377 million budget; and it is estimated that fee collections this fiscal year will be substantially higher.

In my home State of Ohio, the Public Employees Pension Fund will pay several million dollars in the next decade if this legislation is not enacted, and that goes for all of the public employees return systems throughout the country.

Each day this year investors across the country are paying more than $3 million in excess transaction fees alone. The excess revenues are being used to fund other Federal programs, entirely unrelated to regulation of the securities markets. The fees are unmistakably a tax on investors and capital formation. They are no longer about government need, but about government greed.

The legislation also includes a provision granting SEC employees pay parity with the banking regulators. The commission faces a staffing crisis. In the last 3 years, over one-third of the SEC's staff have left the agency. In the

increasingly consolidated financial services industry, SEC staff perform the same functions and work side by side with their counterparts at the Federal Banking Agency, yet inexplicably earn anywhere from 25 to 45 percent less.

In an environment where the investors and markets need effective regulation more than ever, it is important to address the morale problem and its effects on retention of SEC staff. The securities industry strongly supports pay parity, because it will, by helping the commission attract and retain first-rate staff, improve the regulation efficiency of our capital markets.

We intend the pay parity provisions to be executed in a responsible fashion, enabling the SEC to provide the same benefits to its employees as those provided to the Federal banking regulators, but not more.

I am pleased that so many Members on the other side of the aisle have helped in this effort. I particularly appreciate all of the efforts of the gentlewoman from New York (Mrs. MALONEY), the gentleman from New York (Mr. CROWLEY), and the gentleman from New Jersey (Mr. MENENDEZ) for their hard work and efforts on our behalf.

This bipartisan legislation enjoys widespread support from the investing public, the Securities and Exchange Commission, major pension funds, the Profit-Sharing/401(k) Council of America, and the securities industry.

H.R. 1088 is pro-investor, good government legislation. I urge all of my colleagues to vote against the Democratic substitute and to support final passage.

Mr. Speaker, I include for the RECORD two exchanges of letters between myself and Chairman THOMAS and Chairman COMBEST regarding their respective committee's jurisdiction. I also want to thank both of them for their cooperation in bringing this important legislation to the floor.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, April 2, 2001.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On March 28, 2001, the Committee on Financial Services ordered reported H.R. 1088, the Investor and Capital Markets Fee Relief Act. As you are aware, section 2 of the bill affects the Agriculture Committee's jurisdiction with regard to transaction fees on security futures products.

Because of your willingness to consult with the Committee on Agriculture regarding this matter and the need to move this legislation expeditiously, I will waive consideration of the bill by the Agriculture Committee. By agreeing to waive its consideration of the bill, the Agriculture Committee does not waive its jurisdiction over H.R. 1088. In addition, the Committee on Agriculture reserves its authority to seek conferees on any provisions of the bill that are within our jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by our Committee for conferees on H.R. 1088 or related legislation.

I request that you include this letter and your response as part of your committee's report on the bill and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation in this matter.

Sincerely,

LARRY COMBEST,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, April 2, 2001.

Hon. LARRY COMBEST,
Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN COMBEST: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 1088, the Investor and Capital Markets Fee Relief Act.

I acknowledge your committee's jurisdictional interest in the changes to the fee structure for security futures products contained in this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on Agriculture with respect to its jurisdictional prerogatives on this or similar legislation. I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your cooperation.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 2, 2001.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN OXLEY: I am writing to express my support for what you are trying to accomplish in H.R. 1088, the Investor and Capital Markets Fee Relief Act. The Committee on Ways and Means has long taken a jurisdictional interest in the fees collected by the Securities and Exchange Commission. In our view, these ''fees'' are taxes because they greatly exceed the SEC's regulatory costs. In the past, we worked with the Committees on Commerce and Appropriations to attempt to rectify this problem.

As you know, I am strongly committed to protecting the jurisdictional interest of the Committee on Ways and Means and to ensuring that all revenue measures are properly referred to this Committee. To this end, the Committee on Ways and Means relies upon the statement issued by the Speaker in January 1991 (and reiterated by Speaker Hastert on January 3, 2001) regarding the jurisdiction of the House Committees with respect to fees and revenue measures. Pursuant to that statement, the Committee on Ways and Means generally will not assert jurisdiction over ''true'' regulatory fees that meet the following requirements:

(i) The fees are assessed and collected solely to cover the costs of specified regulatory activities (not including public information activities and other activities benefitting the public in general);

(ii) The fees are assessed and collected only in such manner as may reasonably be expected to result in an aggregate amount collected during any fiscal year which does not exceed the aggregate amount of the regulatory costs referred to in (i) above:

(iii) The only person subject to the fees are those who directly avail themselves of, or are directly subject to, the regulatory activities referred to in (i) above; and

(iv) The amounts of the fees (a) are structured such that any person's liability for such fees is reasonable based on the proportion of the regulatory activities which relate to such person, and (b) are nondiscriminatory between foreign and domestic entities.

Additionally, pursuant to the Speaker's statement, the mere reauthorization of a preexisting fee that had not historically been considered a tax would not necessarily require a sequential referral to the Committee on Ways and Means. However, if such a preexisting fee were fundamentally changed, it properly should be referred to the Committee on Ways and Means.

We last addressed SEC fees in the National Securities Markets Improvement Act of 1996. That legislation was intended to reform the SEC fee structure and bring the total amount of fees down to the level of the SEC's budget. In a letter from then Chairman Archer to the Chairman of the Commerce Committee, Congressman Bliley (whose committee had jurisdiction over the SEC at the time), Chairman Archer noted the Committee on Ways and Means' longstanding goal of reducing these ''fees'' so that they truly are fees rather than taxes. Chairman Archer also reserved jurisidictional interest in the fee structure, and stated that the Committee would strongly oppose any attempts to delay or lengthen the fee phase-down schedule provided by the 1996 Act.

Since the enactment of the 1996 Act, it has become increasingly clear that actual fee collections greatly exceed what was estimated in 1996. In fact, I understand that these fees are projected to generate over $2.5 billion in revenue in fiscal year 2001, more than six times the SEC budget. H.R. 1088 seeks to address this issue by reducing these fees down to the level of the SEC's budget, which was also the goal of the 1996 Act.

Because H.R. 1088 would not ensure that fee collections will not exceed the amount required to fund the relevant regulatory activities of the SEC fees, the bill does not meet requirements (i) and (ii) of the Speaker's statement set forth above. If the fees were being newly created, or were fundamentally different from existing fees, the Committee on Ways and Means would ask that H.R. 1088 be referred to it, in accordance with its jurisdictional prerogative. However, the Committee understands that the intent of H.R. 1088 is to significantly reduce these fees and eliminate fees in excess of the SEC's budget. Under such circumstances (and without prejudice to the jurisdictional interest of the Committee on Ways and Means), I will not seek sequential referral of H.R. 1088, as currently written, or have any objection to its consideration, in its current form, by the House.

However, I would emphasize that, if the fee structure set forth in H.R. 1088 is modified in the future, the Committee on Ways and Means will take all action necessary to protect its proper jurisdictional interest.

Finally, I would respectfully request that you include a copy of this letter in the report for H.R. 1088 or in the Record during floor consideration of the bill. With best personal regards,

Sincerely,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, April 2, 2001.

Hon. WILLIAM M. THOMAS,
Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 1088, the Investor and Capital Markets Fee Relief Act.

I acknowledge your committee's jurisdiction over the revenue aspects of this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation. I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your cooperation.

Yours truly,

MICHAEL G. OXLEY,
Chairman.

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

Mr. LAFALCE. Mr. Speaker, I yield myself 7 minutes.

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

Mr. LAFALCE. Mr. Speaker, this bill will do two basic things: first of all, it will achieve pay parity for SEC employees, and there is almost unanimity of opinion, at least amongst Democratic and Republican members of the Committee on Financial Services on that issue. So pay parity is in the principal bill, and pay parity is in the substitute that I would be offering or the motion to recommit, should that be necessary.

There is a difference of opinion within the whole House of Representatives though, primarily from the chairman of the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), but I will let him speak for himself at the appropriate time.

But there is another important aspect of the bill that is controversial, and that is the issue of fee reductions. Now, for the most part, the publicity that has been given to fee reductions has been given exclusively with respect to so-called section 31 fees. When individuals walked into our office, all they really talked about was section 31 fees.

Now, section 31 fees are transaction fees. These are very, very small amounts of money; but given the volume of transactions, they wind up coming to huge amounts of money. In the last Congress, about the only thing that was being talked about was a reduction in those transaction fees, the section 31 fees. As a matter of fact, I am told that an accord had been entered into between Democrats and Republicans dealing with the reduction exclusively in that fee.

But it is a different Congress, and you cannot throw red meat at somebody without having them bite. It looked as if we will be able to get anything through this Congress we wanted, so let us not just reduce section 31 fees, let us reduce section 6 fees. Let us also reduce section 13 and section 14 fees.

Now, what are they? Well, section 6 fees are the registration fees. They are not transaction fees. Section 13 and section 14 are merger and tender-offer fees. They are not transaction fees. Yet the reduction is with respect to them too.

So when I do offer my substitute, it will be dealing with the issue of not section 6 and Not Section 13 or section 14, but exclusively with section 31; and I will reduce the fees, but not quite as much as the gentleman from Ohio does in his bill.

Now, why am I taking what I think is a more prudent approach? Well, for a whole slew of reasons. First of all, we need to be concerned not just with the enforcement capacity of the SEC; we need to be concerned with the enforcement capacity of the totality of government that is involved in enforcing our securities laws. As the gentleman from Pennsylvania (Mr. KANJORSKI) more than any other Member in this body has pointed out, it is not just the SEC, it is the FBI, it is the Justice Department; and we have got to give them additional resources in addition to giving additional resources to the SEC.

The gentleman from Pennsylvania (Mr. KANJORSKI) tried in subcommittee, he tried in full committee, he tried before the Committee on Rules, but he was unable to get an amendment to clarify that under existing law we must provide fees that deal for the totality of the governmental enforcement effort. I think that that is really unfortunate, because his was not a partisan amendment; it was a rational, law enforcement amendment. The gentleman should have been allowed to offer it.

Secondly, I think we are putting the cart before the horse in a terrible, terrible way. I think we are making a huge mistake. Look back from 1 year to the present. The American public has lost approximately $5 trillion in equity market valuation. Now, there are a whole slew of reasons for this, of course; but there are things within the purview of the SEC and the Justice Department and the Congress that we need to be looking at very aggressively.

One of them is analyst independence. Are the analysts promoting themselves? Are the analysts promoting the companies they work for? Are the analysts trying to promote the interests of the investor? Well, we are having a hearing on that this very minute. I think what is going on insofar as investor advice is scandalous, and I do not think we should be reducing fees when we have not addressed that problem.

Look what is going on in accounting. In the past several years, we have seen a trebling of the number of restatements of earnings. In the restatement of earnings cases alone, investors have lost over $30 billion. According to the chief accountant of the SEC, Mr. Lynn Turner, this is the tip of the iceberg. We should be investigating that before we reduce fees.

I think the SEC budget and the Justice Department and FBI budget dealing with securities should be beefed up at least 200 to 300 percent in order to protect the American investor who is in the marketplace today, far, far greater than the investor has ever been in America's history. Unfortunately, today's bill will preclude the type of effective enforcement that I believe we need.

I think it is regrettable that we are doing this. I think it is almost inevitable. I think the cards are in, but I think we are making a tragic mistake.

Mr. Speaker, H.R. 1088 contains a central flaw that could have an adverse impact on many areas of legislative endeavor. The fundamental problem is what I, and a number of my colleagues, consider an excessive cut in fees charged by the SEC to corporations and, in some cases, individuals. Basically, H.R. 1088 cuts approximately $14 billion in federal revenues from FY2002 to FY2011. For FY2002 alone, it results in $1.3 billion in cuts from what otherwise would be collected under present law. I will subsequently join with a number of my colleagues in offering an amendment to remedy this core flaw by diminishing the cuts. At this point, however, I would like to focus on the potential consequences of the approach taken in H.R. 1088.

The Securities and Exchange Commission functions as the primary guardian of U.S. equity and debt markets which are used by better than half American households. It is funded entirely by a variety of complex fees it charges to a range of users. Some of those fees are earmarked, by permanent statute, for the SEC's use. These are referred to as offsets. Others flow into the general revenues. Yet, the markets, directly or indirectly, are the source. The renowned transparency of these markets is the bedrock of the American economy, and the fees are integral to preserving that transparency and protecting investors. How the funds are utilized might be readjusted in the future, but I do not believe that the current revenue stream should be depleted so substantially by permanent statute without a fuller exploration of the adequacy of current oversight and enforcement efforts. The pending substitute would take a more prudent approach.

Prudence is particularly important given substantial evidence that greater oversight and more aggressive enforcement is called for. For example, financial statements are a key barometer of stock worth throughout the entire system, a key piece of information for investors and their accuracy is a central oversight responsibility of the SEC. Yet, judging by the numbers of companies that have had to revise their financial statements in recent months, many major companies have succumed to the temptation to manipulate their results. The number of restatements has more than trebled from the early 1990s, from an average of less of than 50 a year to 156 last year. More than half of the companies accused of financial fraud in shareholder class action suits last year have already been forced to restate their earnings. These figures are particularly troubling when one notes that the original statements are of financials that had been approved by the firms' auditors.

The $14 billion in fee reductions in H.R. 1088 deny the SEC any claims on those funds to reverse this trend. I realize that much of that $14 billion now flows into the general revenue and is not now earmarked for SEC use. However, once these substantial cuts are embraced, any objective review and possible subsequent determination that Congress

should in fact bolster SEC resources and expand agency responsibilities through charges to market users will be seriously compromised. If anything, more of those funds which now flow into general revenue should perhaps be earmarked for SEC use and targeted to enforcement activities. I am not prepared to say to what degree. However, I am prepared to say that prudence should be the rule in allowing any cuts at this point. H.R. 1088, as reported, is in my view too extravagant and will impair future efforts to bolster the SEC.

Second, H.R. 1088 needlessly puts pressure on existing budget limits. Let me emphasize that the OMB has not given an opinion on this bill. Indeed, careful reading of the appendix to the President's budget would lead one to believe the administration is assuming user fees are not cut but continue at the present rates. Additionally, we are all keenly aware that there is considerable pressure on discretionary spending and this institution will be forced to make some hard choices this summer and fall. There is reason for deep concern that reserves will be quickly exhausted and that Medicare fund will have to be invaded. In addition, there are valuable social and economic development programs that are facing substantial cuts, which many Members would prefer to give priority over large-scale fee reductions, including important housing programs cut under the HUD budget. H.R. 1088 will only necessitate further belt-tightening. SEC funds flowing to general revenue, as opposed to those earmarked as offset for the SEC, would be reduced by $8.9 billion from FY 2002 to 2006. In FY 2002 alone, the reductions to general revenue would amount to more than $1.3 billion. In short, H.R. 1088 will increase the immediate threshold of pain substantially and undeniably. The substitute that I and my colleagues will offer as an amendment goes a long way toward solving this problem.

I do solidly support one aspect of this legislation—giving all SEC employees full pay parity with the employees of the bank regulators. The Financial Services Committee reported such a provision, but subsequent efforts at compromise by my Republican colleagues put that provision at risk. I am pleased that further discussion resulted in the full pay parity provision being reported to the floor as part of H.R. 1088. Such a provision is also included in the substitute that I and my colleagues will offer. The situation at the SEC is dire. This is not only because of its high vacancy and turnover rate. It is also because of the priority we should attach to its mission. If the markets are not made safer through high quality and experienced oversight and enforcement, both investors and our broader economy are at risk. The threat is real, and full pay parity is a necessary and overdue part of the solution.

I urge my colleagues to oppose the bill as reported by the Rules Committee and support the Democratic substitute.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me say to everyone paying attention to this debate that I am under no illusion that this bill is going to go down to defeat. I think it is going to pass overwhelmingly.

I do support wholeheartedly the $14 billion in fee reductions, which in effect is going to be like a tax cut for the American people. It is going to be an economic stimulus. What I do oppose, however, is the pay parity provisions, because I think it is going to end up costing the taxpayers of this country a great deal of money.

Now, the SEC in effect wants to take the lid off of the salaries for the people that work there and to have them raised up in conjunction with the other financial institutions in this country. But let me just give you some facts that I think are very important.

The SEC right now has the authority to pay retention allowances under current law up to 25 percent of base pay. So if somebody is making $160,000 a year, right now they could get a $40,000 bonus to keep that person employed. That would kick them up to $200,000. So they do not need this legislation to do that.

The SEC has the authority to pay recruitment bonuses up to 25 percent of base pay. So, once again, if a person was being hired at $160,000, they could give them a $40,000 bonus, which would take them to $200,000. They have that ability right now.

The SEC has the authority to grant employees up to a $10,000 performance bonus, in addition to the other bonuses I just talked about. So a person, if they did a good job, could get $210,000, if their base pay was $160,000.

Now, clearly the SEC is a mismanaged agency. In a recent letter to me from OPM, the Office of Personnel Management, about a 4-page letter, they cited all the problems with the SEC that need to be corrected before they start talking about pay parity. They also said they opposed the pay-parity provisions. The White House, the Office of Management and Budget, opposes the pay-parity provisions.

□ 1130

Yet, it is in this bill, and I am confident it is going to pass today. But I want to go on record opposing it, because it is going to get into the American taxpayers' pockets.

Let me just talk about a couple of other things. Right now the SEC, with recruitment allowances and retention bonuses combined with the special pay rates, could pay attorneys $14,000 more than the FDIC today. They could pay $6,000 more than the Comptroller of the Currency. So if we are talking about making sure that that pay parity is there, it is already there. They just need to utilize the tools they already have available to them.

So despite the claims of the SEC, they have recruitment and retention problems really in only three areas, and that is attorneys, accountants, and examiners. If we take those three categories out, the loss of jobs, the people leaving the SEC, has only gone down by 3.1 percent. So the problem that needed to be addressed was only the attorneys, accountants, and examiners, and we tried to work that out, and we could not.

Let me tell the Members something. As a result of this bill being passed, other agencies of government are going to want the same thing, which means the lid is going to be taken off as far as salaries are concerned for government employees.

Already, the Department of Veterans Affairs, the Commodity Futures Trading Commission, the Export-Import Bank, and the Patent Trademark office have all asked for the same pay parity provisions that are in this bill, and I guarantee the Members that every agency of government is going to want the same thing. They are already calling my office, since my committee has jurisdiction over those pay increases. So Members can just count on pay going through the roof in many agencies of government.

Now, the President wanted a 4 percent cap on spending. It has been raised to about a 5 percent cap on spending. When all the agencies that want these pay parity provisions get them, that cap is going to just be busted right to smithereens, and the cost of government is going to go up. That means the taxpayers are going to have to pay more and more and more for government.

The top pay right now at the FDIC and the Office of Thrift Supervision equals the pay of the Vice President of the United States right now. The pay schedule for an employee at the National Credit Union Administration in San Francisco is almost $300,000 a year.

At the other banking regulating institutions, one out of every five employees makes more than $100,000. At the Federal Housing Finance Board, it is one out of every three employees. In the rest of the whole government, only one out of 25 employees makes that kind of money. Members can see they are all going to want the same thing. It is going to force a raising of the salaries throughout the government. All the employee unions are going to see this and start pushing for it. This is the camel's nose under the tent. The American people are going to end up paying a heck of a lot more for government than they are paying right now.

This is not a good provision. I support the fee reductions, but this pay parity provision is going to really be bad for the country.

Mr. OXLEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

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

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of this legislation, and I want to commend the gentleman from Ohio (Chairman OXLEY) for taking long overdue leadership in bringing this bill to the floor and Congressman FOSSELLA for introducing it. The Financial Service Committee reported the bill by voice vote and passed the Senate by unanimous consent.

Before Memorial Day, we passed the most significant tax cut in the last twenty years. Millions of American families who are saving and investing in their future will be able to have greater control over their finances. Today we have the opportunity to do the same by passing H.R. 1088. This bipartisan legislation will protect American investors from paying excessive fees on their investments today and end Washington's hidden tax on securities transactions.

EXCESSIVE FEES

Fees established in the 1930s for the sole purpose of funding the Securities and Exchange Commission (SEC) have exceeded the amount needed to run the agency by vast sums. Last year alone investors were charged more than six times the amount needed.

Currently, the nearly 88 million American investors who contribute to a public or private retirement plan, 401(k) plan, mutual fund, bank trust, stock or investment product are being overcharged in government fees. Since 1990, American investors have been overcharged in fees by almost $9.2 billion.

In fact, in my state of New Jersey the public retirement plan, the New Jersey Division of Investment, was overcharged $307,000 last year in fees. That is a 10 year total of over $3 million!

We should encourage workers to invest for their future rather than diminish the value of their savings. With more and more options, including mutual funds and online trading, available, the number of Americans investing in the stock market as their primary or supplemental means of saving for retirement has dramatically increased.

As a result of the larger number of employers offering retirement plans, this increase has not been among the very wealthy—the increase in fund ownership between 1998 and 2000 was stronger among households with income of less than $35,000. These retirement funds, because they are traded in large blocks, are especially hard hit by the current SEC fees.

It does not make sense that we overcharged investors in order to create a Washington slush fund. These excessive fees should be eliminated and I urge my colleagues to support this important legislation.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York (Mr. FOSSELLA), the sponsor of the legislation.

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

Mr. FOSSELLA. Mr. Speaker, I thank the gentleman for yielding time to me.

I thank him for his leadership, because without his leadership, we would not be able to bring this bill to the floor; as well as the gentleman from Louisiana (Chairman BAKER), on the other side; my colleague, the gentlewomen from New York, Mrs. MALONEY and Mrs. KELLY; the gentleman from New York (Mr. CROWLEY); and the gentleman from New Jersey (Mr. MENENDEZ), among others.

Today this legislation fulfills the promise with the American people. The original intent of the Congress was to fund the SEC, and it does a wonderful job enforcing our Nation's securities laws to protect investors.

But what has happened over the years is that these fees have become a cash cow for the Federal Treasury. So while the SEC may need a budget or require a budget of about $420 million, the fees collected exceed $2 billion per year.

Those fees become an indirect tax on capital and investors. So if someone is involved in an IRA, he or she benefits under this bill. If someone has a mutual fund, he or she benefits under this bill. If someone is involved in a 401(k), he or she benefits under this bill. If one is involved in a pension fund, they benefit under this bill. If one is an investor, they benefit under this bill.

Indeed, almost 100 million Americans will benefit, because what Congress does today is to say to the American people, when we make a promise, we keep it. When we say we want money to fund the SEC, we will take that money, but anything over and above that, send it back to the American people.

We know what happens when we send the money back to the American people. Not only do we encourage more investment, which is a good thing for America, but we put more money back in the capital markets to allow those entrepreneurs to create more jobs, to allow investors to have a little more freedom to do what they want with their own money.

Talk about savings, I know we are going to hear a lot of numbers today. In my home State of New York, the New York State Pension Fund, teachers pension fund, pays $305,000 in excess fees because Congress has failed to act to date. That is one fund. Could Members think of the thousands across the country that will benefit from this?

I urge my colleagues to support this bill and to reject the substitute, because that is not even half a loaf. It is not even a quarter of a loaf. The substitute continues the charade with the American people. The substitute does not go far enough in providing adequate relief for investors. At the end of the day, that is what this is all about.

Mr. Speaker, I thank the chairman once again for his leadership.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the ranking member of this subcommittee.

Mr. KANJORSKI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the bill and in favor of the substitute. The reason for that is very simple. I hear my friends on the other side, and I do not delude myself, this is going to pass overwhelmingly. Maybe the 107th Congress will get the reputation of being the corporate Congress because, of all the funds that are out there for special use purposes, the first to come before the Congress is the securities industry fund; not the other funds that we collect and use for other purposes, but this fund.

That being beside the point, I think my friends on the other side are disingenuous. The intention of the act that created the user fee for this fund was not for the purposes of funding alone the SEC, it was created for the purposes of funding the cost of the security industry in this country to the United States government. The SEC is just a part, and a small part, of that cost.

For instance, take the FBI, a major investigative agency involved in stock fraud cases all the time. I think, to the best of my recollection, the FBI's budget is around $12 billion a year. Could we imagine maybe 10 percent of the investigative time of the FBI is involved in business fraud and stock fraud situations? That would be $1.2 billion. We receive nothing back from this user's fee to the general fund to fund that. No, the taxpayer, the man who delivers milk, the farmer that grows farm products, everybody in America pays for that special protection for the securities industry of the Federal government.

Let us look at some of the other side expenses. The Justice Department, how much time and how many Federal attorneys are used, and what are their costs involved with security transactions in this country? Certainly they have to be far greater than zero. Nothing is allotted in the user fee scale to cover these costs. We could go on and on. The judicial branch, how much of the court system is devoted to trying cases and litigating issues and securities?

The intention of the original act was that the Federal Treasury would be compensated by this user fee for that purpose. But my friends on the other side, and I daresay most of my colleagues on the Democratic side, they are going to be so happy to reduce the very small portion of the fee on security transactions and in fact underfund the cost to the United States government of the security industry, because we do not know the real costs.

The full intent of my original amendment and the substitute is to provide sufficient time and study to allocate the real cost of the security industry to all of the United States government, and make sure the fee is sufficient to compensate that cost. Instead of doing that, we are only going to cover the cost of the SEC.

We are sending all the money back, and the additional cost of the FBI, the Justice Department, the court system, and every other element of government involved in security industry transactions in this country is going to be borne by that 50 percent of the American people through their income taxes and other taxes, and they have no participation in the benefit of the securities industry. It is a shifting of burden, and the shifting is to the ones that could least afford it.

Our substitute wants to reduce the user fee to reasonable amounts, but it says, very basically, let us find out what the real cost is. Instead, the first order of business of the majority of

this House is to run forward and see how we can affect and get the appreciation of the securities industry of the United States; a tremendous victory, $14 billion over 10 years.

Unfortunately, what my friends on the other side are not telling the rest of the American people is that they are going to be paying taxes in other forms to fund some of the cost of government that directly pertains to the securities industry.

I urge my colleagues on our side to stand up for reason and rightfulness. Vote for the substitute and vote down this bill.

Mr. OXLEY. Mr. Speaker, I am honored to yield such time as he may consume to the gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of H.R. 1088, the Investor and Capital Markets Fee Relief Act of 2001. As the chairman of the Committee on the Budget, I can report to my colleagues that this important bill is fully contemplated and consistent with the recently-agreed conference report on the budget resolution for fiscal year 2002.

The combined reduction in revenue from this bill, with $1.4 billion for fiscal year 2002 and $8.8 billion for the first 5 years, and the recently-enacted Economic Growth and Freedom Act of 2001, is fully within the revenue parameters established by the budget resolution for fiscal year 2002.

I would share and express some concern, however, with the provision in the bill that would exempt financial regulators from the SEC from the civil service pay scale. It is important that we consider the impact of this change on the Federal budget and its implications for other Federal agencies requesting comparable treatment.

I would urge the Committee on Financial Services and the chairman to work with the Committee on Government Reform and Oversight during the conference to address this issue raised by the provision pay parity to prevent further and future adverse budgetary impact.

I rise in support of this bill and urge its adoption.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATERS), the ranking member of the subcommittee.

Ms. WATERS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to H.R. 1088, the Investor and Capital Markets Fee Relief Act, and in support of the substitute. I believe that its purpose is questionable and its approach excessive.

The current fees on the sale of stock amount to just 33 cents per $10,000 of transactions. In other words, most individuals will likely presently spend more to buy a newspaper to read the stock prices than they do on these transactions.

This bill would reduce revenues by approximately $14 billion between 2002 and 2011. I am concerned, especially in light of the recently-enacted tax cut and the need for funding such critical areas, including education, and some relief from high energy prices for my constituents in California, as well as ensuring the solvency of Social Security, that H.R. 1088 is simply cutting too much too soon.

I am an original cosponsor of the Democratic alternative, H.R. 1480, the Fairness in Securities Transactions Act, which represents a reasonable approach to this issue.

The substitute will lower fees by $4.8 billion over 10 years, as opposed to the $14 billion in the bill before us. In addition, the substitute, like the underlying bill, gives the SEC the ability to match the pay and benefits of Federal banking regulators to address the SEC's inability to attract and retain qualified staff, no matter what their pay grade or job title.

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It is important to resolve the differences between the salaries of SEC employees and employees of other Federal regulatory agencies, because the SEC pays as much as 40 percent less than the other financial regulatory agencies. The SEC has lost more than 1,000 employees over 3 years, which is more than one-third its total staff. Attrition at the agency has doubled the government average.

With the passage of the Gramm-Leach-Bliley Act last Congress, the distinctions between the job of an SEC lawyer and a Fed lawyer, for example, have become even more blurred. It is crucial that the SEC have the ability to obtain and retain qualified staff so that investors can receive the protection they deserve.

Mr. Speaker, I urge my colleagues to support the Democratic alternative and oppose H.R. 1088.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), the chairman of the Subcommittee on Oversight and Investigations.

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me the time.

Mr. Speaker, I thank my colleagues from both sides of the aisle for their work on this bill. I rise today in strong support of H.R. 1088, the Investor and Capital Markets Fee Relief Act.

This is legislation to prune fees which have grown to become an implicit tax on long-term investors. The excessive fees, especially section 31 fees, penalize those who invest their savings in the market, and those who have pensions invested in the market.

It is untenable for us to silently tax investors, entrepreneurs, and businesses through fees designed to fund securities regulation. In addition, these excessive fees are passed right on to consumers. While the fees are small on a single trade, they exponentially add up over the years for folk who invest in mutual funds or have pensions.

I am talking about teachers, police officers, workers whose pensions should be protected and encouraged, not taxed. This is a stealth tax.

In addition, the growth of these fees runs directly counter to the legislation that created them. The 1934 Act clearly states that these fees were created to cover the costs of running the SEC. There was nothing about other priorities. Unfortunately, the fees now bring in 5 times as much money as necessary to properly run the SEC.

While it is hard for Washington to return excess money, that is exactly what we must do today. This debate is about priorities, strengthening and encouraging pensions and investment must be our priority.

In crafting this bill with my friends, the gentleman from Louisiana (Mr. BAKER) and the gentleman from New York (Mr. FOSSELLA), I feel it is the best possible solution to the current problem of excessive fees imposed on investors.

This bill will return $14 billion to investors and pension beneficiaries who earned them, and this is where the money belongs.

Mr. Speaker, I ask my colleagues on both sides of the aisle to join me in voting to return the excess fees to the pensions and to the investors. Vote to follow the intent of Congress when it created these fees. I believe that we should all vote to support the Investor and Capital Markets Fee Relief Act.

Mr. LAFALCE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from the City of New York (Mrs. MALONEY) who has a little bit of interest in this issue.

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman from New York (Mr. LAFALCE), the ranking member, for yielding me the time and for his incredible leadership in so many areas.

Mr. Speaker, American investors have been overcharged. Over the last 10 years, the Securities and Exchange Commission has collected $9.2 billion more than it has needed for its operations. This money comes directly from capital markets participants, including individual investors and new issuers.

This legislation is proconsumer, proinvestor legislation that cuts these fees down to a level that provides the SEC with the resources it needs to do its job while saving investors over $14 billion over the next 10 years.

These fees were intended to merely cover the operating costs of the SEC. They were never intended to multiply so dramatically. I can remember when stock ownership was reserved for a select few. Today, 52 percent of American households own stock or mutual funds.

Former SEC Chairman Levitt has stated that 87 percent of the New York Stock Exchange fees and 82 percent of NASDAQ fees are paid by investors.

The New York State Public Pension Plan estimated recently that they will

pay $13.5 million in fees over 5 years. These fees are also paid by the holders of retirement accounts, including 401(k) accounts.

This is the investors' money. We should let them keep it. The bill also included much needed pay parity for the SEC. At the very least, SEC employees should be paid the same as banking regulators. We are in a staffing crisis.

At the SEC regional office, at 7 World Trade Center in New York, 19 percent of the staff left during fiscal year 2000.

Mr. Speaker, I urge my colleagues to support the bill and oppose the substitute. H.R. 1088 is supported by labor, the National Treasury Union, the industry, and the SEC. This bill will send a strong message to the Senate that they should take up our version of the bill and get relief to investors as quick as possible.

Finally, let me thank all that have worked on this bill in a bipartisan way, particularly the gentleman from Ohio (Mr. OXLEY); the gentleman from the great State of New York (Mr. FOSSELLA); and I must thank very much the gentleman from New York (Mr. LAFALCE), the ranking member; and the gentleman from Pennsylvania (Mr. KANJORSKI).

While we disagree on the extent to which SEC fees should be cut, no one has worked harder to secure parity for the SEC employees, and I thank them greatly for their work in this area.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOKSEY). The Chair would remind the Members that it is not appropriate to advise the Senate on what actions they should take.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is time to end this excessive fee on savings and investment. It is a fee that is a tax. It was wrong for Congress to impose a fee, otherwise known as a tax, on tens of millions of Americans.

The current tax was levied to fund the Securities and Exchange Commission, but guess what, it soon became a cash cow and Congress now uses it to fund other government programs, and that is just not right. One of my constituents, Al Anderson, of Coastal Securities is an example of someone who is adversely affected by this so-called fee.

When I visited his company, he told me he had to pay an additional $4 million in taxes over the last 3 years just because of this fee.

Now, that is not a small sum of money, and when he factored it into his business plan, it meant one thing, slower growth. There was a job impact. The government should not be in the business of slowing business down. The business that government ought to be in is to encourage businesses to grow.

While this bill helps companies like Coastal Securities, it will also make it easier for people to save for retirement through either individual stock investments, mutual funds, 401(k)s, or pension plans.

So this bill, which relieves the tax that has gotten far too big and it is used far too wide. With all the talk about the need to prepare for retirement, the least this Congress can do is remove this barrier to savings.

We need to cut taxes again for the people. Support America. Support this bill.

Mr. LAFALCE. Mr. Speaker, I yield 2½ minutes to the gentleman from the great City of New York (Mr. ACKERMAN), a member of the Subcommittee on Financial Institutions and Consumer Credit.

Mr. ACKERMAN. Mr. Speaker, I want to thank the gentleman from the great State of New York (Mr. LAFALCE), the ranking member of the Committee on Financial Services for yielding me the time.

Mr. Speaker, I am proud to be an original cosponsor of H.R. 1088, the Investor and Capital Markets Fee Relief Act. This is very important legislation which will reduce the securities transaction fees, and I rise in strong support of the measure.

A reduction in these fees will benefit not only Wall Street, but will benefit so many families throughout the country who today own more stock than ever before. In addition to individuals, State and local pension plans will benefit from a reduction in these fees.

For example, in my State of New York, it is estimated that payments in the public pension plans alone in section 31 fees are presently projected to be approximately close to $14 million over the next 5 years.

An important component of any legislation addressing reducing security transaction fees is paid parity for SEC employees.

These Federal workers are stationed not just in Washington, D.C., they live throughout the Nation and work in the SEC field offices. Some of them are my constituents who work in the largest SEC field office in the City of New York.

We must be able to attract and retain highly qualified regulators to ensure the integrity and strength of our markets. We are not seeking to compete with the private sector. As we all know, government service requires a special level of devotion to our Nation, which is often not well compensated, as well as work in the private sector. However, within the Federal Government, the certain standard should exist.

It is simply unacceptable for the SEC regulators not to be paid on par with their counterparts in other Federal financial agencies. I am very pleased that the pay parity provision is included in this bill.

Mr. Speaker, I am very happy to join with so many of our colleagues both on our committee and others in the House in supporting one of the first measures to be considered on the floor from this new committee, the Committee on Financial Institutions and Consumer Credit.

Mr. Speaker, I look forward to the passage of legislation on the floor today, swift action in the Senate and signing by the President. I encourage our colleagues to vote for this important measure.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the vice chairman of the Democratic Caucus.

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

Mr. MENENDEZ. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. OXLEY) for standing by our bipartisan agreement, for keeping his commitments to those of us on the Democratic side of the aisle, and for fighting for American investors.

I also need to say I am not used to disagreeing with the gentleman from New York (Mr. LAFALCE), the distinguished ranking member, my friend, because he is such a thoughtful legislator and a good friend. I want to thank him for his principled leadership on the Committee on Financial Institutions and Consumer Credit.

However, I strongly support this bill which as written has strong union support, industry support, and agency support.

It is rare to get all of those parties supporting one effort, but this bill has it. It has that support for a good reason. The stock market has increasingly become the investment of choice for America's working families, and these families are relying on the growth of their savings to finance everything from buying a home, to putting their kids through college, to having a secure retirement.

But just as the savings of American families have moved into the market, the government-imposed fees these families pay to purchase these stocks are taking an every-increasing bite out of their profits. Fees are assessed from everything from mutual funds to pension funds in ways that many investors are not often even aware of and are costing Americans billions of dollars. Once you figure in the loss of compound interest, these fees can rob an individual family of thousands of dollars in lost profits over time.

The fees were originally authorized by Congress to cover the operating costs of the Securities and Exchange Commission. That is a necessary and valid purpose which I totally support. Consumers and investment firms benefit from the market, and I think it is reasonable to ask market participants to help pay the costs of the very agency that ensures the market runs efficiently and fairly.

The problem is that today, because of a rise in market value, no one could have predicted these fees are taking almost six times what is necessary to

fund the Securities and Exchange Commission. That is simply not reasonable.

Let us oppose any weakening amendments. Let us make sure that we give investor fee relief. Let us do it in the bipartisan way that this bill has been crafted.

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Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. MEEKS), a member of the committee from the City of New York.

Mr. MEEKS of New York. Mr. Speaker, I stand today in strong support of H.R. 1088, the Investor and Capital Markets Fee Relief Act.

Let me thank the gentleman from Ohio (Chairman OXLEY) for his leadership and the gentleman from New York (Mr. LAFALCE), the ranking member, for his leadership on the committee. As indicated by the last speaker, this is an unusual opportunity with which I disagree with the ranking member, but on this one I do.

This bill will save investors and other market participants $14 billion over the next 10 years. The SEC 31 fees and other fees collected by the SEC were created to fund the SEC without the need for an appropriation from the general treasury. However, over the past two decades, an increasing number of individuals have been participating in the market through 401(k)s, mutual funds, and on-line transactions.

This has caused the SEC to collect $9.2 billion more in fees over the last 10 years than has been needed to fund the agency's operation. As a result, the agency has been put in a position of collecting additional taxes from the public for the general treasury.

H.R. 1088 and its companion bill in the other Chamber will correct this inequity while containing a provision that will allow for fees to be adjusted upward should the SEC face a funding shortfall.

Probably the most important provision for me of this bill is this provision for pay parity for SEC employees with their Treasury and Federal Reserve counterparts. As it stands, the Federal Government is not able to compete with the private sector when it comes to paying our financial regulators what they are worth.

The SEC is at a serious disadvantage when they cannot compete for employees with their government counterparts. The result has been a loss of approximately one-third of their employees over the past 3 years. This creates delays and inefficiencies in carrying out their regulatory duties to safeguard fairness and transparency and all in our capital markets, capital markets which are critical to our position as the world's economic superpower.

I want to thank the sponsor and cosponsor of this bill and encourage all Members of the House to support it.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from the Big Apple, New York, (Mr. CROWLEY), a distinguished member of our committee.

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

Mr. CROWLEY. Mr. Speaker, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me the time and the gentleman from New York (Mr. LAFALCE) for his diligent work on this bill as well. I rise in strong support, in favor of the Investor and Capital Markets Fees Relief Act. I want to thank the lead sponsors, the gentleman from New York (Mr. FOSSELLA) and the gentlewoman from New York (Mrs. MALONEY), both from New York City, for introducing this legislation.

These SEC charges are user fees and not taxes, and they currently bring in almost six times more than are needed to operate the SEC. It is fair to lower these fees and pass these savings on to the American people.

While these fees appear small, they can have a substantial effect on Americans who purchase and sell stocks or those Americans who open mutual funds or 401(k)s or who are saving for a retirement in a public pension plan.

In fact, these fees, with their excessive collections, have become an onerous form of taxation on investment, hindering investment and saving opportunities for Americans.

Right now, under the current formula, the typical family will pay $1,300 in fees over their lifetime to the SEC. By lowering these fees and applying these same dollars to their investments, like pension funds and 401(k)s, this money could grow to over $11,000 in extra savings.

In my home State of New York, the State's public pension program will pay over $14 million in the next 5 years in SEC fees if Congress does not take action, fees that are not needed for their intended purpose of financing and operating the Securities and Exchange Commission.

That $14 million could be better invested into people's pockets for their retirement. As 50 percent of Americans now own stock and have some say in the actions of the financial markets, this bill will provide relief to Main Street, not just to Wall Street.

Furthermore, this legislation will finally provide full pay equity to the hard working employees at the Securities and Exchange Commission, many of whom live in my district and throughout many of the metropolitan cities in America.

This pay equity is not only fair but is also justified and is also badly needed.

In fact, one SEC office in New York City has witnessed 100 percent turnover. This bill will help adjust the staffing problem at the SEC.

As both the representative for the financial capital of the world and a lifelong resident of Queens, I recognize that investors of yesteryear wore wingtip shoes, but the investors today wear workboots.

I urge my colleagues to support this legislation.

Mr. Speaker, I rise in strong support of the Investor and Capital Markets Fee Relief Act and want to thank the lead sponsors Representatives VITO FOSSELLA and CAROLYN MALONEY for introducing this legislation. These SEC charges are user fees—not taxes—and they currently bring in almost 6 times more than are needed to operate the SEC. It is fair to lower these fees—and pass these savings on to Americans. While these fees appear small, they can have a substantial effect on Americans who purchase and sell stock, or those Americans who own mutual funds or 401(k)'s or who are saving for a retirement in a public pension plan. In fact, these fees, with their excessive collections, have become an onerous form of taxation on investment, hindering investment and savings opportunities for Americans.

Right now, under the current formula, the typical family will pay $1,300 in fees over their lifetime to the SEC. By lowering these fees and applying these same dollars to their investments, like pension funds and 401(k)'s, this money could grow to over $11,000 in extra savings. In home state of New York, the State's public pension program will pay over $13 million in the next 5 years in SEC fees if Congress does not take action—fees that are not needed for their intended purpose of financing the operations of the Securities and Exchange Commission. That $13 million could be better invested into people's pockets for their retirement. As 50 percent of Americans now own stock and have some say in the actions of the financial markets, this bill will provide relief to Main Street not just to Wall Street. Furthermore, this legislation will finally provide full pay equity to the hard working employees at the Securities and Exchange Commission, many of whom live in my district and in major metropolitan areas throughout the United States.

They live in places like San Francisco, Los Angeles, Denver, Salt Lake City, Miami, Atlanta, Chicago, Boston, Philadelphia, Fort Worth and, of course, Washington, D.C. This pay equality is not only fair and justified but also badly needed. Currently, the employees of the SEC—the people making sure the securities industry is working for America—are earning less pay than their counterparts at other federal regulatory agencies of the same field, like the Treasury, the Federal Reserve Bank, and the Office of the Comptroller of the Currency.The result—massive staff turnover at the SEC. In fact, one SEC office in New York City has witnessed 100 percent turn over—this bill will help address this staffing problem at the SEC. As both a representative from the financial capital of the world and a lifelong resident of Queens, I recognize that the investors of yesteryear wore wingtips, but the investors of today wear workboots.

This legislation is for the tens of millions of Americans who invest for their retirement, a child's education or a better life and to the hard working and dedicated employees at the SEC, who deserve equality and fairness in their compensation. I urge my colleagues to support this legislation.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from New York City, New York, (Mr. ENGEL) of the Committee on Energy and Commerce.

Mr. ENGEL. Mr. Speaker, I want to thank the gentleman from New York (Mr. LAFALCE). Even though we disagree on this bill, he is truly one of the great Members of this House.

I rise to voice my strong support for H.R. 1088. I also want to urge my colleagues to support the manager's amendment. I was a cosponsor of this bill in the last Congress when jurisdiction rested with the Committee on Energy and Commerce on which I serve, and I am also a cosponsor this year as well.

This bill is obviously important to my home city, New York City, and important to the rest of the country as well. The need for the underlying bill is just simple mathematics. Current law allows the Federal Government to charge far more in fees than are needed to keep the SEC operating.

Let us be clear. By the end of this fiscal year, the SEC will have collected $22 billion more than it has needed to operate. That is $22 billion that could have stayed with the individual investors to be invested and made available to the capital markets.

We in Congress have done a lot to encourage our constituents to start saving for retirement. Millions of Americans are now investing in the stock market through their 401(k) plans and mutual funds. But some of their savings are actually being drawn off to pay for the fees that have been accumulating at the SEC. We need to fix this now.

These fees drain capital from the private markets, removing it at the very start of the capital-raising process, and divert it to the U.S. Treasury. The transaction fee is assessed when brokerages charge an investor for selling shares, and are generally passed on to the customer as part of the cost of the transaction.

Once this fee is reduced, investors will be able to see the savings immediately. The individual investor, not the broker, is paying the vast bulk of these transaction fees. On the New York Stock Exchange, 87 percent of the section 31 fees are paid by individual investors and 82 percent on the NASDAQ. This is unacceptable.

Also, the manager's amendment adopts the language for pay parity. This is something I have supported for a very long time. We cannot expect the government to attract the talent it needs if we are going to pay these people sometimes half of what they can earn in the same job in the private sector.

So, Mr. Speaker, I urge a yes vote on the manager's amendment and a yes vote on the underlying bill. This is a bill whose time has come.

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

Mr. LAFALCE. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mr. COOKSEY). The gentleman from New York (Mr. LAFALCE) has 8 minutes remaining.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, there are some individuals, for example, labor unions who support this bill, and they support it because of the pay parity provisions, and that is it. They really do not care that much about the various fee reductions. They will support any bill that has pay parity within it. So much for that.

Who are the other ones who are primarily supporting this bill? Well, let us not kid ourselves. It is the securities industry. It is not individual investors. They have not been coming to us. I do not think I have received one phone call or one letter from an individual investor. But I have been inundated by representatives from the various securities industries. They are the ones who are most interested, and they want this reduction. They think it is going to be good for their industry.

Reductions might be in order. The question is how much and what should one do before the reductions. Well, first of all, it seems to me before one does the reductions, one ought to figure out what one needs. We have not done that.

There is not a person in this House who could tell me how much the FBI spends on enforcing our securities laws. There is not a person in this House who can tell me how much the Department of Justice spends on enforcing our securities laws. Most important, no one can tell me how much we should be spending amongst the SEC and the FBI and the Justice Department to fund our securities laws.

Now, that is pretty important. I think that is unbelievably important because we are talking about trillions and trillions of dollars. I mean, you know, we are talking about a relative pittance, we are talking about a relative amount of pennies for individual investors. But when their stock that was 100 all of a sudden goes to 2, there is an enormous problem. That is not a pittance now. That is their life that has been lost. That has been taking place time after time after time for a whole slew of reasons.

At the very minute we are considering this bill, the subcommittee that produced this bill is considering another issue, investor independence. There is an enormous problem there, so enormous that the industry itself yesterday came out with some practices that they said are absolutely imperative to improve the performance of analysts to get their act together. They are a good first step, but they do not go nearly far enough. They are voluntary in nature.

At one time, there was an investigation of thousands of different recommendations, and about 1 percent of those recommendations said sell. Wow. There used to be a ratio of, say, 6 to 1 buy to sell. Lately, that ratio has been revealed to be about 100 to 1.

We have an entirely different type of terminology. The SEC and the FBI and the Justice Department should be investigating this. That is what we should be talking about rather than saying reduce the fees.

Accountants, what are accountants doing? Well, for the most part, accountants are not making very much money doing accounting or auditing. They are doing an audit of a firm, maybe getting $2 million for the audit, and then making $100 million on consulting fees. One has to wonder about the independence and objectivity of that audit.

In the past couple of years, we have seen a tripling of the number of restatements of earnings. Each and every single one of those restated earnings had initially been approved by the accountant auditing firm. That is troubling. That has resulted in the decimation of people's lives. They have loss their savings, maybe not 100 percent, but maybe 50 percent, 75 percent of their savings.

The SEC does not have the present capacity. We have seen a geometric increase in market valuation and no increase in staff. We have seen a geometric increase in IPOs and no increase in staff. Now we are going to have an increase in pay, pay parity, and no increase in staff authorizations. So fewer staff.

I am concerned about that. I am concerned about that because the single greatest reason we had problems, Mr. Speaker, with the S&Ls was inadequate supervision, when the number of examiners, the number of supervisors were cut back. There are a multiplicity of reasons, but that was the single greatest one. We put this cart before the horse. We give the industry what it asks for unwittingly.

All the money that was given, by the way, is coming from general revenues. Certain of the monies, certain of the fees are going to a special fund, and the other fees go to general revenues. The reductions we are making all come from general revenues.

So we are going to have $14 billion less for other things, too, not just SEC, $14 billion less for prescription drugs, for health care for the uninsured, for housing for those who are homeless. One has to wonder where our priorities are. I wonder.

The bill will pass, but it should not pass, not until we ask all these other questions and answer them and deal with all these other problems first.

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

Mr. OXLEY. Mr. Speaker, I am to yield 2 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me this time, and certainly to the gentleman from New York (Mr. LAFALCE), my friend and distinguished ranking member, whom I agree with an overwhelming majority of the time, but on this issue here we have a small disagreement.

I rise in support of H.R. 1088. There is no doubt that excessive fees imposed on financial transactions should be reduced.

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These fees were originally intended to fund the enforcement activities of

the Securities and Exchange Commission, but the revenue collected by these user fees has come to far surpass the amount needed by the SEC, as a matter of fact, by a factor of five; and this warrants a little fixing, as they say in my part of the country.

To be sure, we have a host of budget priorities exceedingly more important than the issue on the floor today; the quality and delivery of education, prescription drugs for seniors, and, clearly, national defense, as the President struggles to talk about it across the globe. But we should be addressing these priorities by being responsible with general tax revenue, not by overcharging a specific industry on user fees. It is simply unfair to say to investors, sorry, we charged you too much by accident; but we are not going to give the money back because we need it for other purposes.

SEC fees should be reduced to the point where they fully fund the enforcement responsibilities of the Securities and Exchange Commission. And for the SEC to do its job effectively, its employees need to be paid at a competitive rate. Recruitment and retention of key employees are critical for the effective operation of any business or any government agency. However, the SEC's effectiveness will deteriorate if it cannot maintain its institutional memory and continuity of purpose.

We rely on the SEC to protect investors, a mission that is becoming increasingly complex as more and more Americans become investors and our financial system becomes increasingly global. It is time we establish pay parity between SEC employees and the other financial regulators. H.R. 1088 accomplishes both goals, reducing SEC fees and establishing pay parity for SEC employees. It corrects an unfairness caused by unforeseen changes in the market, and for that reason I am proud to support it.

The SPEAKER pro tempore (Mr. COOKSEY). The time of the gentleman from New York (Mr. LAFALCE) has expired; the gentleman from Ohio (Mr. OXLEY) has 8½ minutes remaining.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H.R. 1088.

Mr. Speaker, a rose by any other name is still a rose, and government fees are nothing more than government taxes. When the fees that are designed to be drawn from the system to pay for the costs of that system exceed the cost, they are simply and plainly excessive taxes.

The vision of the gentleman from Ohio (Mr. OXLEY), expressed in H.R. 1088, is the right vision for America. It represents an enormous savings to taxpayers. According to the CBO, this bill will save taxpayers, which are the investors who pay the fees, an estimated $1.5 billion in 2002 alone and $8.9 billion from 2002 to 2006.

It is time, in these uncertain days of instability and unpredictability in our stock market in America, to say yes to those Americans that invest in America; and I rise, therefore, in strong support of 1088 and say let us reduce the fees that are nothing more than taxes.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of the underlying bill. I think it is a good bill. I think it is the right thing to do.

I will say that I do not think this bill is a panacea. It is not going to affect every taxpayer. It is not going to even out corrections in the stock market. But what it will do is save the investors money, it will save issuers money; and more importantly, I think, in an era of surpluses it will get us back to using fees for what Congress originally intended them to be.

Quite frankly, I would hope that we would follow up in passing this bill in bringing the CARA bill to the floor, which passed overwhelmingly, so we could use the fees from offshore drilling, off the coast of my State of Texas and other States, for coastal conservation, as was intended by President Johnson when the Land and Water Conservation Fund was set up. But this bill is the first step in that right direction, and I think it will also require us to go back and look at our budgets and budget appropriately, which, quite frankly, we have not done.

This is a good bill, I support it, I commend the chairman for bringing it to the floor, and I hope my colleagues will follow suit and pass it.

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

Mr. Speaker, I have no further speakers under general debate; but I just want to acknowledge and thank the subcommittee chair, the gentleman from Louisiana (Mr. BAKER). He is very obviously supportive of the bill, it came out of his subcommittee, but he is chairing a very important hearing, as we speak, on the securities issues regarding stock analysts; and that is why he was unable to be present during the general debate.

Ms. CARSON of Indiana. Mr. Speaker, I rise today in support of the LaFalce Amendment. While I agree with the principle of a reduction in SEC fees, and pay parity for SEC employees, I believe that Mr. LAFALCE'S substitute approaches this issue with a prudence not present in H.R. 1088.

As many of my colleagues have highlighted, agencies such as the Congressional Budget Office have estimated that the fees required to be collected by the SEC from all sources will total over $2.47 billion in fiscal year 2001. This represents more than five times the SEC's fiscal 2001 appropriation of $422.8 million. The current levels of SEC fees that were developed to fund the cost of regulating the securities markets, now seriously exceed the government's cost of regulation to such a degree that they constitute a drag on capital formation, and a special burden on every American investor.

Both H.R. 1088 and the LaFalce substitute address the SEC's staffing crisis by giving the SEC the much-needed ability to match the pay and benefits of other federal banking agencies, and they also recognize that in the wake of the historic Gramm-Leach-Bliley Act of 1999, the ability to compensate SEC staff at the same level as their sister regulators at the banking agencies is more imperative than ever. With pay-parity the SEC can continue to function effectively by remaining an institution that can attract and retain dedicated professionals.

Since 1990, American investors have been overcharged over $9 billion, as the volume of investment has soared since the fees were originally levied in the 1930s. In 1996, Congress enacted reductions in the fee rates, to take effect over 10 years, with the intention that after fiscal year 2007 the amount collected should be approximately equal to the SEC's budget, or the cost to the government of regulating the markets. However, trading volumes and merger activity have soared, and fee receipts are projected to continue to exceed the SEC's budget by a wide margin.

While I support a fresh attempt to bring SEC fees back down to reasonable levels, and believe that a reduction will benefit all of America's investors, I feel that the LaFalce substitute provides American investors with a more prudent and more secure solution to the reduction of SEC fees, and providers the SEC with a stable solution to its current problems.

Mr. CHAMBLISS. Mr. Speaker, I rise today to speak on H.R. 1088, the Investor and Capital Markets Fee Relief Act.

While I commend Representative FOSSELLA, Chairman OXLEY, and Chairman BURTON on their work to reduce fees imposed by the Securities and Exchange Commission, I am bothered by the lack of inclusion of pay parity for the Commodity Futures Trading Commission while a pay parity provision for the SEC is included. The SEC and the CFTC are the only federal financial regulators governed by the pay scales outlined in title V of the United States Code. The CFTC, as does the SEC, experiences difficulties in recruiting and retaining staff. Including provisions solely for the SEC would only further disadvantage the regulatory body over which my Subcommittee has jurisdiction.

The Commodity Futures Trading Commission cannot currently offer salaries competitive with the private sector; the Commission's ability to compete with fellow public financial regulators will be further hindered. Over a 22-month period, the Commission lost over 40 percent of key staff to better paying positions. Of those who left for better pay, over 20 percent went to the Securities and Exchange Commission—where a 10 percent pay differential was offered within title V. One can only expect for this number to increase if the SEC becomes exempt from title V as other federal financial regulators have. Concerns over recruitment and retention of staff will only be augmented due to this provision in the bill.

The Commodity Futures Modernization Act, signed into law December 2000, is now being implemented by both the CFTC and SEC. Six months after the bill has become law is not an appropriate time to disadvantage the agency.

The best lawyers are needed to implement this bill that is critically important to the financial industry.

Although I have supported H.R. 1088 on the merit of fee reduction, I am disappointed that Chairmen OXLEY and BURTON could not grant my request to include equitable treatment to the Commodity Futures Trading Commission regarding pay parity.

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

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LAFALCE:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Fairness in Securities Transactions Act''.

(b) FINDINGS.—The Congress finds the following:

(1) The United States capital markets are recognized as the most liquid, efficient, and fair in the world.

(2) The Securities and Exchange Commission has been charged since 1934 with maintaining the integrity of the United States capital markets and with the protection of investors in those markets.

(3) The majority of American households have their savings invested in those securities markets.

(4) A lack of pay parity for the employees of the Securities and Exchange Commission with other United States financial regulators poses a serious threat to the ability of the Commission to recruit and retain the professional staff required to carry out its essential mission.

SEC. 2. IMMEDIATE FEE REDUCTION.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended by striking ''1/300 of one percent'' each place it appears and inserting ''1/500 of one percent''.

SEC. 3. REVISION OF SECURITIES TRANSACTION FEE PROVISIONS; ADDITIONAL FEE REDUCTIONS.

(a) POOLING AND ALLOCATION OF COLLECTIONS.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended—

(1) in subsection (b)—

(A) by striking ''Every'' and inserting ''Subject to subsection (i), each''; and

(B) by striking the last sentence;

(2) by striking subsection (c);

(3) in subsection (d)—

(A) by striking paragraphs (2) and (3);

(B) by striking the following:

''(d) OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.—

''(1) COVERED TRANSACTIONS.—Each national securities''

and inserting the following:

''(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED AND LAST-SALE-REPORTED SECURITIES.—Subject to subsection (i), each national securities'';

(C) by inserting ''registered on a national securities exchange or'' after ''security futures products)'';

(D) by striking '', excluding any sales for which a fee is paid under subsection (c)'';

(4) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively;

(5) in subsection (e) (as redesignated by paragraph (4)), by striking ''(b), (c), and (d)'' and inserting ''(b) and (c)''; and

(6) by adding at the end the following new subsection:

''(h) DEPOSIT OF FEES.—

''(1) OFFSETTING COLLECTIONS.—Fees collected pursuant to subsections (b) and (c) for any fiscal year—

''(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, except that the amount so deposited and credited for fiscal years 2007 through 2011 shall not exceed the target offsetting collection amount for such fiscal year; and

''(B) shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

''(2) GENERAL REVENUES.—Fees collected pursuant to subsections (b) and (c) for fiscal years 2007 through 2011 in excess of the amount deposited and credited as offsetting collections pursuant to paragraph (1) for such fiscal year shall be deposited and credited as general revenue of the Treasury. No fees collected pursuant to such subsections for fiscal years 2002 through 2006, fiscal year 2012, or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.''.

(b) ADDITIONAL REDUCTIONS OF FEES.—

(1) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended by adding after subsection (h) (as added by subsection (a)(6)) the following new subsections:

''(i) RECAPTURE OF PROJECTION WINDFALLS FOR FURTHER RATE REDUCTIONS.—

''(1) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section that are equal to the sum of—

''(A) the target offsetting collection amount for such fiscal year; and

''(B) the target general revenue amount for such fiscal year.

''(2) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for all of such fiscal years to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this section in fiscal year 2012 equal to the target offsetting collection amount for fiscal year 2011.

''(3) LIMITATION ON RATE ADJUSTMENT.—Notwithstanding paragraphs (1) and (2), no adjusted rate established under this subsection for any fiscal year shall exceed the rate that would otherwise be applicable under subsections (b) and (c) for such fiscal year.

''(4) REVIEW AND EFFECTIVE DATE.—An adjusted rate prescribed under paragraph (1) or (2) and published under subsection (g) shall not be subject to judicial review. Subject to subsections (h)(1)(B) and (j), an adjusted rate prescribed under paragraph (1) shall take effect on the first day of the fiscal year to which such rate applies and an adjusted rate prescribed under paragraph (2) shall take effect on the first day of fiscal year 2012.

''(j) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under subsections (b) and (c) at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(k) DEFINITIONS.—For purposes of this section:

''(1) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount is an amount equal to—

''(A) $976,000,000 for fiscal year 2002;

''(B) $1,132,000,000 for fiscal year 2003;

''(C) $1,370,000,000 for fiscal year 2004;

''(D) $1,627,000,000 for fiscal year 2005;

''(E) $1,913,000,000 for fiscal year 2006;

''(F) $1,110,000,000 for fiscal year 2007;

''(G) $1,144,000,000 for fiscal year 2008;

''(H) $1,327,000,000 for fiscal year 2009;

''(I) $1,523,000,000 for fiscal year 2010; and

''(J) $1,745,000,000 for fiscal year 2011.

''(2) TARGET GENERAL REVENUE AMOUNT.—The target general revenue amount is an amount equal to—

''(A) zero for each of the fiscal years 2002 through 2006;

''(B) $463,000,000 for fiscal year 2007;

''(C) $449,000,000 for fiscal year 2008;

''(D) $500,000,000 for fiscal year 2009;

''(E) $551,000,000 for fiscal year 2010; and

''(F) $614,000,000 for fiscal year 2011.

''(3) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES.—The baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, and security futures products) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Congressional Budget Office in making projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and as contained in the projection required to be made in March of the preceding fiscal year.''.

(2) CONFORMING AMENDMENT.—Section 31(g) of such Act is amended by inserting before the period at the end the following: ''not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies''.

SEC. 4. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

''Sec.

''4801. Nonapplicability of chapter 47.

''4802. Securities and Exchange Commission.

''§ 4801. Nonapplicability of chapter 47.

''Chapter 47 shall not apply to this chapter.

''§ 4802. Securities and Exchange Commission

''(a) In this section, the term 'Commission' means the Securities and Exchange Commission.

''(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

''(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

''(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

(12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

''(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

''(f) This section shall be administered consistent with merit system principles.''.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

''48. Agency Personnel Demonstration Project ..... 4801.''.

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking ''or'' after the semicolon;

(ii) in subparagraph (D), by inserting ''or'' after the semicolon; and

(iii) by adding at the end the following:

''(E) the Securities and Exchange Commission;''.

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking ''or'' after the semicolon;

(ii) in paragraph (3), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(4) section 4802.''.

(2) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

''(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking ''the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 2001.

The SPEAKER pro tempore. Pursuant to House Resolution 161, the gentleman from New York (Mr. LAFALCE) and a Member opposed each will control 30 minutes.

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

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

Mr. Speaker, I do not believe the debate should take that long. I offer this amendment on behalf of the gentleman from Pennsylvania (Mr. KANJORSKI), the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from California (Ms. WATERS), the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. TOWNS), and the gentleman from Massachusetts (Mr. MARKEY).

I have stated before what this amendment in the nature of a substitute does. It has basically the same pay-parity provisions that the underlying bill does; but with respect to the reduction of fees, it focuses in on transaction fees, section 31 fees, and reduces them not by the amount that the main bill does but by approximately half that amount, by approximately $5 billion rather than by about $10 billion over a 10-year period. It does not reduce either registration fees or tender-offer or merger fees.

That is the basic difference, and I would hope that Members would support it.

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

The SPEAKER pro tempore. Is the gentleman from Ohio (Mr. OXLEY) opposed to the amendment?

Mr. OXLEY. I am indeed.

The SPEAKER pro tempore. The gentleman is recognized for 30 minutes.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume, and indeed I rise in opposition to the amendment.

Let me say to my friend from New York that we have had a good debate on this issue, and it has been a bipartisan debate, which has been quite enlightening. My big concern is that there is some misperception that somehow these SEC fees should be used for something other than funding the Securities and Exchange Commission, that is, the FBI and the Justice Department. Let me remind the Members that when Congress passed the Capital Markets bill, the NSMIA bill, back in 1996, under the leadership of our good friend Jack Fields, the effort at that time was to create a user fee. Those folks who would use the SEC to police the markets and to make certain that things ran smoothly, that those fees would be used to fund the SEC. A genuine user tax. A user tax like when we buy gasoline at the pump. That tax goes into roads and bridges. And that is what a user fee really is.

The user fee in this case has become so large and has grown so exponentially, as a matter of fact I have a chart which shows the SEC funding versus fee collections, and we can see the SEC appropriations down here and the total SEC fees have gone up exponentially, particularly during the bull market; and as a result those fees have become excessive and have in fact funded this SEC six times over.

Now, my friend from New York, who offered the substitute amendment, if he were sincere about taking some of those revenues and using them for something other than the SEC would have directed those fees to the FBI and to the Justice Department, and maybe even to the Metropolitan Police Department of the District of Columbia. But that is not what the SEC fees were all about. That is what the Congress decided back in 1996, and we were so successful that they have overextended the SEC budget by six times.

So what we are saying is this is an overtax. It is a tax on investment, it is a tax on savings, it is a tax on job creation and ought not maintain. So that is where we are today. So while my friend wants to cut some of the fees, but not all of the fees, our argument is just the opposite, that we only need these fees to run the SEC.

Later on this year we will be debating and discussing the reauthorization for the Securities and Exchange Commission. It may very well be, I will say to my friend from New York, that the SEC will come in and make a case for increasing their authorization. And if indeed they do, I will join my friend from New York in authorizing more funds so that the SEC can continue to do its good work. But that will come later, and that is a different issue in that regard.

So this is an amendment that needs to be defeated. We need to return those excess fees back to where they belong, and that is the American investor; and I would ask that the amendment be defeated.

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

Mr. LAFALCE. Mr. Speaker, I yield myself 2 minutes. First of all, the distinguished chairman says that we are going to reduce the fees now and then later on we are going to consider the needs of the SEC; that later on, if we feel that there are greater needs, then we will increase their authorization. I think he has just proven that we are putting the cart before the horse. We ought to consider what the needs of the SEC are first before we engage in the fee reduction.

Secondly, he says that these fees are only for the SEC. But the fact is the law does not say that. The law does not use the word SEC. The law uses the word government. It is the resources of government that are necessary for the enforcement of our securities law that are to be funded by these fees. And that includes, at the very least, the FBI and the Justice Department.

Now, we wanted to clarify that. We offered an amendment in subcommittee to clarify that. It was argued against. We offered an amendment in the full committee. We attempted to offer an amendment on the floor of the House to clarify that these fees should be used by the totality of government law enforcement agencies with respect to our securities' laws. The Republican majority gave us a gag rule on that issue. They refused to allow us to say that the fees raised should be used for the totality of enforcement, not just SEC, but FBI and the Justice Department.

So to come in and make the argument that all these fees are to be used for SEC when the world knows we need more than the SEC if we are to have effective enforcement, and we are saying, yes, we need these fees for the other governmental agencies too for effective enforcement, I think is misleading and erroneous.

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

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume, before recognizing my next colleague, to respond to my friend from New York, if I may.

The gentleman had the opportunity to put in his substitute anything he wanted, which would have included, of course, the provisions that he mentioned.

□ 1230

Mr. Speaker, I am not making any preconceived ideas about the needs for the SEC. That will obviously come in the necessary regular order as it relates to the SEC and their funding and the reauthorization. But to say that these fees somehow should be used for law enforcement other than the SEC strikes me as simply not correct. The gentleman could simply introduce an amendment to the proper appropriations bills that would increase the funding for the FBI and the Department of Justice directly related to the SEC.

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

Mr. OXLEY. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, the gentleman is not denying that an amendment was offered by the gentleman from Pennsylvania (Mr. KANJORSKI) that the gentleman from Ohio strongly opposed? The gentleman is not denying that the gentleman from Pennsylvania (Mr. KANJORSKI) joined forces before the Committee on Rules in order to seek the permission of the Rules Committee to offer an amendment on the floor of the House and that the gentleman from Ohio opposed it and that the majority of the Rules Committee opposed its being offered on the floor, does the gentleman?

Mr. OXLEY. Of course not. I am simply saying those amendments were defeated handily in the subcommittee and committee, and the gentleman from New York had the opportunity to put that language in his substitute.

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

(Mr. FOSSELLA asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. FOSSELLA. Mr. Speaker, I rise to oppose the amendment in the nature of a substitute. As someone who likes to look at the positive, I commend the gentleman from New York for reducing transaction fees; but not enough. That is the problem with the amendment. It does not go far enough.

If we go back to the original intent here, what Congress promised the American people, and my colleagues have heard it here a number of times, we need enough money to fund the SEC, to allow the SEC to do its job. Above and beyond that, to the tune of an excess of $2 billion per year, let us send that money back to the investors. If we believe that we want to make more American investors, we should reduce the fee, as in the underlying bill. If we want to make more people participants in IRAs, support the underlying bill. If we want to make more people participants in 401(k)s or pension funds, then vote for the underlying bill and oppose this amendment.

Mr. Speaker, the teachers' pension fund in New York alone paid $305,000 in excess fees. Why should we, Congress, force the teachers' pension fund of New York to pay $305,000 per year? Where does that money come from? It comes from their members. Think of the thousands of funds across the country.

As far as those who are concerned about the budget of the SEC, and it is a reasonable concern, I ask unanimous consent that this letter dated March 15, 2001 be entered into the RECORD. "I am pleased to write in enthusiastic support of the proposed Investor and Capital Markets Fee Relief Act. This bill, as you described it today, will provide meaningful securities fee relief to investors, market participants, and public companies, while assuring full and stable long-term funding of the Commission." This was signed by the acting chairman of the SEC. Obviously there is a certain and reasonable level of comfort that the SEC is going to get the funding it needs to do its job.

Mr. Speaker, the underlying bill is what provides investors across America the real purpose and intent of what it was all about. Congress broke its word for awhile. Now it is fulfilling its promise and giving Americans more incentives to invest.

The letter previously referred to is as follows:

U.S. SECURITIES
AND EXCHANGE COMMISSION,
Washington, DC, March 15, 2001.

Hon. VITO J. FOSSELLA,
Committee on Financial Services, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN FOSSELLA: I am pleased to write in enthusiastic support of the proposed "Investor and Capital Markets Fee Relief Act." This bill, as you described it today, will provide meaningful securities fee relief to investors, market participants, and public companies, while assuring full and stable long-term funding of the Commission. I commend you and Chairman Oxley, Subcommittee Chairman Baker, Representatives Sue Kelly, Felix Grucci, Carolyn Maloney, and Joseph Crowley, as well as the other cosponsors and your staff, for crafting such a considered approach to this technically complex and multifaceted issue.

The pay parity provision is particularly important to the Commission's ability to attract and retain qualified staff. The proposed bill, together with commensurate authorization and appropriation, will help address this issue.

Again, I express my sincere thanks for your leadership on these issues. Please let me know if there is anything my staff or I can do to assist you as this process moves forward.

Sincerely,

LAURA S. UNGER,
Acting Chairman.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to the substitute, but not in opposition to the substitute's sponsors. The gentleman from New York (Mr. LAFALCE), the ranking member, and the gentleman from Pennsylvania (Mr. KANJORSKI), the subcommittee chairman; and I disagree on the extent to which SEC fees should be reduced.

Mr. Speaker, I want to make sure that all of my colleagues are aware of the tremendous hard work that they have done in ensuring that the pay parity provisions for SEC employees were included in the process. There are no two Members who have been more committed to making sure that the professionals who regulate our capital markets are the most qualified in the world than the gentleman from New York (Mr. LAFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. Speaker, while their substitute includes the pay parity provisions that are in the underlying bill, I will oppose it because I believe SEC fee reduction should be more expansive than proposed. I believe cutting section 31 fees,

merger and transaction fees, and fees on new issues is the fairest way to provide fee relief.

Under the formula in the underlying bill, all users of the capital markets will be given fee relief, avoiding a situation where one group of users of the capital market overly subsidizes the cost of market regulation for others.

Regardless of our disagreement on this issue, the gentleman from New York has been a leader on pay parity; and I praise his efforts and his principled leadership on the Committee on Financial Services.

The substitute proposal, while well intended, does not significantly reform the current fee structure. The underlying bill has strong union support, industry support, and agency support. It is incredibly rare to have all three parties supporting a bill, yet the underlying bill has their support.

Mr. Speaker, I urge support for the underlying bill, and I urge my colleagues to vote against the substitute.

Mr. OXLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. GRUCCI), a valuable member of our committee.

Mr. GRUCCI. Mr. Speaker, I rise in opposition to the LaFalce, Kanjorski, Frank, Dingell, Markey, Towns, Waters substitute amendment, and in favor of H.R. 1088. This substitute amendment clearly does not address the excessive and unnecessary transaction fees that are imposed on investors and market participants on a daily basis.

Today nearly half of the U.S. households, 57 percent of which have an annual household income of less than $75,000, invest in mutual funds. Between 1998 and 2000, the largest increase of mutual fund ownerships has been strongest among households with annual incomes of less than $35,000. Approximately 88 million Americans own stock directly or indirectly through a pension fund, a 401(k), or a mutual fund. The average American investor is no longer a Wall Street tycoon. The average American investor is now your neighbor.

I believe we have a responsibility here in Congress to encourage hardworking American families to invest in their futures and in those of their children rather than waste money from their savings on unnecessary transaction fees.

A good example of this unnecessary waste is the New York State Teachers' Pension Fund. The fund was overcharged $305,000 in the year 2000; and over a 10-year span, this could amount to a loss of $3.6 million.

Now I understand that this fee structure was originally created in the 1930s in order to provide the SEC with an appropriate operating budget. However, with the growth in the investment community, these fees are no longer necessary. The substitute amendment does not address the excessive fees to the extent that we are able to and should not be approved.

Mr. Speaker, I am sure my colleagues will agree that it is simply common sense for Congress to return hard-earned dollars back to consumers, families, and investors. The savings achieved through the elimination of these securities transaction fees will be better spent by individual Americans on education, retirement, and reinvestment opportunities.

Mr. Speaker, I ask my colleagues to join me in voting against the substitute amendment and in favor of H.R. 1088.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I rise in strong support of the underlying bill and in opposition to the Democratic substitute.

The difference between the majority's bill and the Democratic substitute is simple. The majority's bill lowers all fees that all investors pay to the SEC, approximately to the point where the fees collected would about cover the cost of operating the SEC.

The Democratic alternative lowers some fees, but much less, leaving American savers and investors forced to continue to overpay fees to pay this overcharge so it can serve as a cash cow for all of government.

Our bill provides $14 billion over 10 years in fee reduction because the SEC is poised otherwise to charge $14 billion in excess fees. The Democratic alternative provides less than $5 billion in fee reduction. And one of the things that we have heard this morning is a criticism of our bill because it takes into account only the direct costs of the SEC and not all of the other costs that might be associated with some kind of securities enforcement.

Mr. Speaker, I have to say that it does not appear that that provision is the intent of the substitute amendment. I would cite a ''Dear Colleague'' that was circulated by the supporters of the substitute in which they argued that excess securities fees should be spent on elderly housing programs, Head Start, medical research, and transportation infrastructure. In other words, basically all of government. The idea embodied in the Democratic alternative is that this should continue to serve as a cash cow for the rest of government.

If the minority wants more money for all of these spending programs to grow government, to grow programs, to increase spending, I think it should be paid in a more straightforward way, in a way in which all Americans are more equal in sharing in the burden, and it should not be hidden in fees charged to investors.

Mr. Speaker, it is not fair to do it that way. It is not productive to our capital markets to do it that way. I urge my colleagues to reject the Democratic substitute amendment, and vote for the underlying bill which would be a huge savings for America's savers and investors.

Mr. LAFALCE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), a distinguished ranking member of the Subcommittee on Capital Markets.

Mr. KANJORSKI. Mr. Speaker, it is a very interesting question that the substitute suggests that we fund all other elements of government. Why do we not look at the special funds that are being collected that are not being used for the purposes that they are being collected for?

I think some of my colleagues on the Committee on Transportation and Infrastructure would say we have airport funds, taxes that are being charged and levied against every traveler at every airport with funds of billions of dollars that are not being used to build airports and to solve the transportation problem, but are going to fund other areas of the Federal Government.

I can tell you a perfect example. I come from an area that involves coal mining. We have the abandoned mine land charge on coal companies in this country with more than $1.5 billion in that fund, and this Congress has not allocated those funds for 7 or 8 years. We are not even putting out the interest on those funds to correct a grievous error on the environment of air and water pollution in this country.

The idea that suddenly within 5–6 months since the beginning of the 107th Congress, this bill is here on the floor already, moved through the committees, I think even paved in the United States Senate. There is no need to conference this bill. It has been preconferenced.

I ask the question: Why? Why can the majority party legislate in 165 days from its beginning this buildup in the securities area of taxation and fundraising, and they cannot attend to the other problems. They cannot attend to the fact that we have needs in hospitals from the Medicare fund; and needs of education and educational funds to raise. Nobody ever looks at that.

I just have to believe, and I do not like to believe it, but when the telephone rings and our Congress listens, there seems to be direct and very loud communications from Wall Street.

I do not like to say that because I just came from a hearing, otherwise I would have spent my whole day arguing this bill. But over there we were trying to discover whether we have independent analysts. Millions of investors lose a portion or all of their life-savings with bad advice, with partial advice.

Mr. Speaker, have we said any of these funds should be made available to establish standards to provide ethical conduct and enforcement of those standards to see that investors in America sometimes do not lose trillions of their dollars? I raised the question when one of the witnesses talked about every investor on Wall Street should not rely on an analyst, he should read the prospectus, the balance statement of the firm and the profit and loss statement.

I asked the question: Why is the majority party heading down this railroad so quickly? The other side of the aisle wants to even privatize Social Security and allow 130 million Americans to take a percentage of their Social Security and invest it in the stock market, all on the advice of analysts that to some indication have not been forthright with even the more sophisticated investors.

□ 1245

I asked the question: What are you going to do when all of these people come into the market? We know 23 percent of the American people are functionally illiterate. We are not going to have a program and we are not going to have the funds to make sure there are protections for this, whether they are done by private industry or government. I prefer private industry to do it.

What you are doing right now is taking the funding mechanism away for any further protection and information systems that may have to be established, intrastate, interstate on stock security transactions, on payments back on fraud cases from the protection fund. You are taking all this money away. In the future if we discover we need more FBI investigations, more prosecutions, more studies or more information, we are going to come back and take it out of the pot of the average taxpayer, Joe Blow, who has to go to work every day, maybe makes a little bit above minimum wage, and he is going to pick up the tab for the Wall Street investor.

I think it is wrong. I do not think this legislation is wrong. I think the issue of not using user fees for purposes they are not intended to be used is a correct issue. I stand by it. I just say it is premature. Why did you pick the securities industry first? Why did you not think of American transportation? Why did you not think of American medical and health needs and use those funds first? I urge my colleagues to support the substitute and oppose the bill.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. JONES), a member of the committee.

Mr. JONES of North Carolina. Mr. Speaker, I rise today in opposition to the proposed substitute to H.R. 1088. I believe the underlying bill that the gentleman from Ohio (Mr. OXLEY) and my colleagues from both sides of the fence worked so hard to bring to the floor is superior.

Congress created a simple fee structure so that the SEC would be paid directly by the regulated securities community rather than the general taxpayer. The Securities and Exchange Commission accomplished this by imposing user fees on investors. The problem that we are faced with today results from the fact that the revenue we collect from these securities fees total over six times the amount of the SEC's annual budget. The excess fees go into the general revenue fund and are used to fund programs that have nothing to do with the original congressional intent of only covering the operating costs of the SEC.

The proposed substitute does not fix the problem. Mr. Speaker, the underlying bill before us today, H.R. 1088, would return $14 billion over the next 10 years to American investors and those seeking access to our securities markets. For this reason, both the Americans for Tax Reform and National Taxpayers Union strongly endorse passage of H.R. 1088.

Mr. LAFALCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

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

Mr. Speaker, the Committee on Financial Services, on which we serve, has jurisdiction over at least two sets of fees. When we were doing our budget reviews, they both came up. One set of fees are the fees that go to the SEC, which we are substantially lowering. The other set of fees are the fees that go to the Federal Housing Administration, the FHA. The Bush administration has announced that they are going to raise those.

Now, I hope that when some of us try to contest this fee raising, that all of this fervor against stealth taxes and excessive fees will not have totally dissipated, although I would not want to bet on it, even if betting were legal, which it is of course not. In fact, the FHA is a net contributor to the Federal treasury. We had a hearing called by the chair of the Subcommittee on Housing, the gentleman from New Jersey, in which all of the Federal auditing agencies made it clear, the FHA is in very good shape.

So how do we respond to the FHA, which has the mandate of helping housing, helping particularly nonrich people, because there is a limit on how much house you can get under the FHA, so the FHA is a middle-class and moderate income housing program. The fees on multiple family housing, a commodity in very short supply in much of this country, will be raised. Why will they be raised? Apparently in part so we can reduce the fees on the SEC, because we are talking about a fungible part of money.

So the people who are engaged in stock trading, a perfectly reasonable and honorable occupation but not one I had previously thought as being in the ranks of the oppressed, will get relief. Most of the people involved have already gotten relief through other tax measures, but the FHA fees will go up. If Members wonder whether or not I am violating the rule of germaneness, the answer is no, because these are both fee structures within the jurisdiction of the Committee on Financial Services. Indeed, under the instructions we get from the budget authority, raising one and lowering the other, these are offsets.

I agree there is a case for lowering the SEC fees. But by lowering them to this extent, we are also making multiple family housing for moderate- and middle-income people more expensive. That is not my choice, that is the choice of this administration, because there is a proposal pending from Secretary Martinez to raise the FHA fees. Under our budget structure, there is an offset here.

Now, it is not simply in this particular instance that I think we err by raising the fees for people of moderate income who are seeking multiple family housing. By the way, the administration has asked us to enhance the ability of the FHA to finance units in some parts of the country. That is their major housing production program right now, the FHA multiple family housing area, and they want to raise the fees on it. On the other hand, they want to reduce, more than I think is justified, the fees on the SEC.

It is not simply this particular instance that troubles me. We have an economy which has been doing better during this past decade than any economy in the history of the world. I am delighted with that, as we all are. We are all working to keep that going. It has produced wealth in amounts beyond what people thought possible. That is a very good thing. But we also know that there have been inequities in the distribution of it.

And what has this Congress consistently done? We have seen inequity and decided to make it worse. We have seen a gap and tried to widen it. That is what we do today. To the people who are in the financial industry and the stock part of the economy where things have over the decade done well, although there is obviously a slight drop now, we give them more benefits. In the area of housing, under the FHA, where we have a national crisis and many people, working people, middle-income people in great distress, this administration wants to raise the fees.

I would hope that we could pass this amendment, not reduce the fees as much, and then turn to the legislative measures that would be necessary to prevent the steep increase in FHA fees that we may be facing. So I am grateful that we have had a chance, because we like to talk about priorities. Here is the chance. You have two sets of fees. As we speak, the administration is preparing to raise FHA fees and we could reduce the necessity for that. It would take some legislative changes but it is all a fungible part of money, if we were to not lower these fees as much.

For people who say, well, why should one subsidize the other, the fact is neither one is being subsidized if you look at the fee structure the way we do it. The FHA fees in fact are in surplus. So the FHA fees will be increased so they can make a bigger contribution to the tax cut and the SEC fees will be substantially reduced, further exacerbating inequality. The Congress should not try to get rid of all inequality. It

could not if it wanted to. But for Congress to take a set of actions, Congress and the administration together, that make this kind of inequity and maldistribution worse rather than better is absolutely the wrong way to go.

Mr. OXLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. SHADEGG), a member of our committee.

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

Mr. Speaker, I rise in strong support of H.R. 1088. I want to compliment the gentleman from Ohio (Mr. OXLEY), the chairman of our committee, and the gentleman from New York (Mr. FOSSELLA), the author of this bill, for bringing forward such a commonsense piece of legislation.

The reality of this bill is very simple and very straightforward. American investors, and that is over half of all families in America, are being overcharged. It is simple, it is straightforward, it is that basic. They are being overcharged by $14 billion over the next 10 years. That is indeed an inequity and it is a maldistribution.

This commonsense bill, brought to the floor after a thoughtful legislative process, with hearings, fixes that inequity. And so I rise in strong support of the bill but also in strong opposition to the amendment.

The authors of the amendment are well intended. The substitute, they say they want to go not quite so far. What they would do is overcharge America's investors by $9.2 billion. I also want to compliment them on being very honest and straightforward. They are not doing this in a deceptive fashion. They say point blank, yes, we know it raises more money than we need, we know it raises $9 billion more than we need, but we ought to spend that money on, as they propose, elderly housing programs, CDBG blocks, Head Start, medical research, transportation and infrastructure. They admit it raises more than we need and we put that burden on investors, and they say spend it on general funds. I am glad there is bipartisan support for not doing that to America's investors. We have heard Democrats rise on this floor today and support the majority bill and oppose the substitute.

I just want to make the point in opposition to the remarks that were just made. It was just pointed out by my colleague, an argument was made that what is being done wrong here is that, and the argument was made, that we are raising the cost and making more expensive multiple family housing by lowering this excessive fee which collects more than is needed for what the fee is supposed to do. Nothing could be further from the truth. The inequity in maldistribution is that we are imposing this fee on investors, not on others.

If we want to subsidize housing, multiple housing, then let us do so honestly. Let us tell the American people we are doing it. I simply think it is fair to my colleagues and the American people to understand. If we want to subsidize multiple family housing, so be it, but do not hide it in this bill.

We owe the American people honesty. This bill is honest. We owe American investors, more than half of all American families, to charge only what the fee is supposed to collect. I compliment the sponsors of the bill and I urge my colleagues to support H.R. 1088.

Mr. LAFALCE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. COOKSEY). The Chair is unable to entertain the gentleman's point of order until the Chair has put the question on the amendment.

Mr. LAFALCE. Would the Chair restate that position? I thought that I would be able at any point that I was recognized to get up and make a point of order that a quorum was not present.

The SPEAKER pro tempore. Under the rules of the House, the Chair may not recognize the absence of a quorum during debate. The only time the point of order may be entertained is when the Chair puts the question to the House on the gentleman's amendment.

Mr. LAFALCE. So you could debate within the House of Representatives without a quorum?

The SPEAKER pro tempore. A point of order of no quorum is not permitted during the debate, no.

Mr. LAFALCE. Mr. Speaker, I move to adjourn.

The SPEAKER pro tempore. The Chair is unable to recognize the motion.

The previous question is ordered under the rule without such intervening motion.

Mr. OXLEY. Point of inquiry. Does the request have to be in writing?

The SPEAKER pro tempore. On demand, the motion needs to be in writing.

Mr. OXLEY. The gentleman from New York was recognized for what particular purpose?

The SPEAKER pro tempore. With the previous question having been ordered to passage without intervening motion pending is the debate on the amendment controlled by the gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE). Under the special rule, no other motions are permissible.

Mr. LAFALCE. A motion to adjourn is not permissible at this time?

The SPEAKER pro tempore. The gentleman is correct.

PARLIAMENTARY INQUIRY

Mr. LAFALCE. Mr. Speaker, I have a parliamentary inquiry. When is a motion to adjourn permissible?

The SPEAKER pro tempore. With the previous question being ordered to final passage without intervening motion under the rule that motion can be entertained after the question of passage of the bill.

Mr. LAFALCE. Not before passage of the bill?

The SPEAKER pro tempore. That is the ruling of the Chair.

Mr. LAFALCE. I will not appeal the ruling of the Chair. But attempting to expedite this, and I have made an offer that we could proceed expeditiously without vote on the substitute, without offering a motion to recommit, without vote on final passage, and I have been rebuffed. The reason I have been making these motions is because I have been rebuffed in my attempt to expedite the consideration of the House.

□ 1300

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Richmond, Virginia (Mr. CANTOR), a distinguished member of our committee.

Mr. CANTOR. Mr. Speaker, I rise today in opposition to the proposed substitute and in strong favor of the underlying bill.

I would like to commend the gentleman from Ohio (Mr. OXLEY) for his leadership on the bill and the gentleman from New York (Mr. FOSSELLA) for bringing this bill forward.

I think it has been said before, the basic notion behind this bill is a fee for service and, in this case, Depression-era Federal securities laws imposed various user fees on investors and market participants so that the regulated community paid for the costs of their regulation. Here we have a case where the fee has been far in excess of the need for operating the regulatory agency, and ultimately the fee has turned into a back-door hidden tax increase for all Americans who choose to invest their hard-earned money in the capital markets.

The impact of these provisions can be felt by every American at every income level as an estimated 80 million Americans own stocks directly or indirectly through mutual funds, pension funds or college savings plans.

These investment vehicles provide access to wealth, security and retirement and the ability for families to pay for a college education. Fees for registration, merger, tender offers and transactions all add costs to these beneficial programs.

The tax levied upon the American people by securities fees are detrimental to the creation of capital, thereby impeding job creation, economic opportunity and growth. Providing immediate relief from these excessive fees will benefit all investors of all types at every income level, including individuals and small businesses, providing a much needed boost to our slowing national economy.

American investors suffer as these costs are consistently passed on to individuals while excess fee revenues are deposited into the U.S. Treasury to be spent on unrelated government programs.

Mr. Speaker, the situation is unfair and the time has come to correct this injustice. The proposed substitute does not represent a fair return of this hidden tax.

Mr. Speaker, I again express my strong support for the underlying bill and its attempt to provide truth in fees and transparency for all Americans, and I urge defeat of the substitute and adoption of the underlying bill.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX).

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

Mr. COX. Mr. Speaker, I rise in strong support of the Investor and Capital Markets Fee Relief Act and in opposition to the substitute offered by the gentleman from New York (Mr. LAFALCE). Markets do not pay taxes; people do.

So we are just today attempting to relieve taxpayers, people, savers, retirees, teachers, cops, moms and pops, retirees of a burden on savings and investment, and a significant one. We are doing so only to the extent that it is fiscally reasonable. The fees, the taxes that we are talking about here are meant to fund the SEC but over the past many years, and we have been studying this issue for 8 years, we have seen that the fees are running far in excess of what it requires to operate the SEC.

There is a big tax overcharge and it runs into billions of dollars. If we were to adopt the substitute, then the tax overcharge would run to well over $2 billion still. As a result, it is very, very important to reject the substitute and to pass the underlying legislation.

The bill that we are considering today will repeal the penalty tax on savings and investment that is represented by these enormous fees. The substitute would maintain the status quo. It will not stop the tax overcharge. It will not deliver the tax relief that American savers and investors deserve. It would allow the SEC to continue to impose fees far in excess of what the agency needs to fund its operations.

The substitute is really a great way to stick it to investors and savers. In California, our teachers' retirement, our CALPERS retirement fund, has paid in overcharges, in just the year 2000, $2.6 million. That is for those worthy people's retirement savings. Why should we take it away from them if it is not necessary for the SEC to fund its operations?

This is a vitally needed bill. It is very, very good for the country. It is good for savers, and I urge that we reject the substitute.

Mr. Speaker, I rise in strong support of the Investor and Capital Markets Fee Relief Act (H.R. 1088), and in opposition to the substitute amendment offered by the gentleman from New York [Mr. LAFALCE].

Markets don't pay taxes—people do.

Before I begin my formal remarks, I'd like to take a moment to commend the chairman of the Financial Services Committee, the distinguished gentleman from Ohio [Mr. OXLEY], as well as the Chairman of the Capital Markets Subcommittee, the gentleman from Louisiana [Mr. BAKER], for their hard work on this legislation, and for making passage of this bill a top priority for the Committee.

It's entirely appropriate that this legislation follows so closely on the heels of the recently-enacted tax bill, as the legislation before us today provides significant additional tax relief for American investors by reducing the excessive fees now imposed on the sale of Securities: Stocks you own directly, or trust your company retirement plan, or union pension fund, to own in your name. If you're a teacher or peace officer, it's the investments that the trustees of your retirement plan makes.

Today, investors and other participants in U.S. capital markets are being massively overcharged by the Securities and Exchange Commission for the services it provides. When Congress wrote the Securities Act of 1933 and the Exchange Act of 1934, we authorized the SEC to impose certain fees to help offset the agency's costs of regulating the securities marketplace. But in recent years the government has been imposing fees on investors and other participants in the securities market that are far beyond what is needed to pay for the SEC's budget.

Last year alone, investors paid $2.3 billion in fees to the SEC—six times the amount needed to pay for the agency's $380 million budget.

Over the last decade, the SEC has collected $9.2 billion in excessive fees.

These so-called ''fees'' are a direct tax on savings and investment. All the excess taxes not needed by the SEC are not returned to retirees, or young workers. Instead they're sent along to the U.S. Treasury, to add to our record-breaking tax surplus.

The bill we are considering today, H.R. 1088, will repeal this penalty tax on savings and investment. H.R. 1088 cuts the rate of every major SEC fee.

The substitute, on the other hand, would maintain the status quo. It won't stop the tax overcharge. It won't deliver the tax relief that American seniors and investors deserve. It would allow the SEC to continue to impose fees far in excess of what the agency needs to fund its operations.

The weaknesses of the substitute amendment are evident:

One third the total tax relief. The substitute amendment guarantees that government will continue to collect overcharges of nearly $10 billion. Of course, none of these extra taxes would go to benefit the SEC whose budget is already fully funded under H.R. 1088. Instead, the overcharges will be passed along to the U.S. Treasury to add to the record-high tax surplus.

Limited transaction fee relief reduces so-called Section 31 fees, which are imposed on the sale of securities. In 1996, these fees raised $134 million; but in 2000, the amount collected had grown to more than $1 billion. Under substitute, Section 31 fees could cost investors $2 billion in 2006.

No registration fee relief. Despite the recent growth in transaction fee collections, Section 6(b) fees—which are imposed on the registration and issuance of new securities—still raise more revenue than any other fee imposed by the SEC: $1.1 billion last year alone. H.R. 1088 reduces 6(b) fees by 62%; unfortunately, the substitute amendment contains no reduction in 6(b) fees.

No other fee relief. In addition to ignoring the need to reduce securities registration fees, the substitute also fails to reduce the other tax overcharges covered by H.R. 1088. It contains no relief for hard-working Americans.

For all these reasons, I urge my colleagues to reject the substitute amendment. It fails to provide investors—who have been massively overpaying for the SEC's services—with the relief they deserve from these massive tax overcharges on savings and investments. By rejecting this amendment, and instead approving the tax relief in H.R. 1088, Congress can protect Americans from burdensome taxes on their life savings, on capital formation and on the competitiveness of the U.S. economy.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROYCE), a distinguished member of our committee.

Mr. ROYCE. Mr. Speaker, when Congress created the current fee structure for securities transactions, the intent there was to ensure that the regulated community would pay for the cost of their regulation, and basically due to a rising stock market and due to unprecedented trading volume the government is now collecting fees that greatly exceed the operating budget of the SEC; in fact, by some six times greater than that operating budget.

What happens to this revenue? Well, it is deposited into the U.S. Treasury and it is used for other Federal programs.

What would be the benefit of eliminating the tax overcharge? Well, by reducing the transaction fees paid by investors each time they sell a stock, by reducing the registration fees, then this would eliminate basically a tax on equity transactions. This is a tax felt by everyone who invests in mutual funds. This is a tax felt by everyone in retirement accounts and, as we know, Mr. Speaker, it is a majority of Americans.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. MANZULLO), a distinguished member of our committee.

Mr. MANZULLO. Mr. Speaker, I rise in opposition to the Democrat substitute. We have heard a lot today about the SEC, through no fault of its own, collecting six times more per year than it needs to fulfill its obligations. That extra money goes into the general government money pot and then it is spent on other programs. Apparently some people think that is okay, but the bottom line is this: More Americans are investing than ever before and this is good. Unfortunately, only 20 percent of small business owners are able to set up pension plans for their employees. This is bad. Any unnecessary money we collect diminishes the value of American savings and may prevent other small businesses from helping their employees plan for retirement.

We should not penalize the millions of American families and small businesses who are working hard to plan for the future. I would encourage my colleagues to vote no on the Democratic substitute.

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

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. ROGERS), a member of our committee.

Mr. ROGERS of Michigan. Mr. Speaker, I thank the gentleman from Ohio (Mr. OXLEY) for his leadership.

Mr. Speaker, my father was a teacher for 32 years. He paid into his pension regularly; never missed, quite obviously. His pension was being overcharged by user fees.

I have a friend that is a milk hauler, works long hours, spends a lot of time away from his family. He diligently puts a little money aside every week in his 401(k). His pension, his savings for his family, is being overcharged.

I have a friend of mine, a young widow with two children, puts a little money away in an education savings plan in Michigan. That education savings plan, the very thing that is going to allow her children to better themselves, is being overcharged.

This is very, very simple. We can talk about $14 billion and we can talk about the structure of the SEC and the regulators and pay parity, and all of those things are important, but what is important to me and the people I represent are these teachers, are these widows, are these hard-working individuals who get up every day and play by the rules who just say, look, I understand I have to pay for it but do not overcharge me one penny, please, because it is my money.

The weight and burden should not be on the shoulders of those who save for their future.

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

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. THOMAS), the distinguished chairman of the Committee on Ways and Means.

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

Mr. THOMAS. Mr. Speaker, I want to compliment everyone who worked on this particular bill. For a long time, the quote/unquote, SEC user fees were actually taxes, and there is a long record of the fact that it was a revenue raiser. In fact, it was a tax on investing. For some time, there has been a history of the Committee on Ways and Means using a constitutional provision in dealing with taxes called blue slipping legislation that moves from the Senate, since they do not have the ability to originate revenue, and the SEC user fees clearly fit the pattern of taxes.

With this bill, that is no longer the case. With the adjustment in the user fees, what they actually are going to be are user fees. If someone wants to mark progress in the Federal system, the idea of having legislation to call something what it actually is is a blue ribbon day.

So I want to thank the committee in terms of producing a product in which the phrase ''user fee'' is used and it is, indeed, a user fee. I congratulate the chairman for this.

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

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

The SPEAKER pro tempore (Mr. COOKSEY). Pursuant to House Resolution 161, the previous question is ordered on the bill, as amended, and on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFALCE).

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFALCE).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 126, nays 299, not voting 7, as follows:

[Roll No. 164]

YEAS—126

Abercrombie
Allen
Baca
Baldacci
Baldwin
Barrett
Becerra
Berman
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Gephardt
Green (TX)
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holden
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Luther
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Millender-McDonald
Miller, George
Mink
Mollohan
Murtha
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rivers
Rodriguez
Roybal-Allard
Sabo
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Skelton
Slaughter
Solis
Spratt
Stark
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Woolsey
Wynn

NAYS—299

Ackerman
Aderholt
Akin
Andrews
Armey
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Everett
Flake
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holt
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Maloney (CT)
Maloney (NY)
Manzullo
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Towns
Traficant
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—7

Cubin
Ferguson
Houghton
Johnson, E. B.
Jones (OH)
Lucas (OK)
Watts (OK)

□ 1335

Mrs. KELLY, Ms. SANCHEZ, and Messrs. COBLE, DAVIS of Illinois,

GILMAN, CARSON of Oklahoma, MCNULTY, PICKERING, REYES, BARR of Georgia, ROTHMAN, TOWNS, and RUSH changed their vote from ''yea'' to ''nay.''

Mr. WYNN and Mr. THOMPSON of Mississippi changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. WATTS of Oklahoma. Mr. Speaker, I was unavoidably detained across town at an important Energy Seminar and unfortunately missed the vote on the LaFalce Substitute Amendment to H.R. 1088 earlier today.

I ask that the RECORD reflect that, had I been able to be here for the vote, I would have voted ''no'' on the LaFalce Substitute.

The SPEAKER pro tempore (Mr. LINDER). The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 404, noes 22, not voting 6, as follows:

[Roll No. 165]

AYES—404

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Flake
Fletcher
Foley
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—22

Burton
Clayton
DeFazio
Delahunt
Dingell
Duncan
Filner
Jones (OH)
Kanjorski
Kaptur
Kucinich
LaFalce
Lee
Markey
Obey
Olver
Stark
Taylor (MS)
Thurman
Tierney
Visclosky
Waters

NOT VOTING—6

Cubin
Ferguson
Greenwood
Houghton
Jefferson
Johnson, E. B.

□ 1354

Mr. VISCLOSKY changed his vote from ''aye'' to ''no.''

Ms. WOOLSEY changed her vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I rise to inquire about the schedule for next week from the gentleman from Texas (Mr. ARMEY), the distinguished majority leader.

Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Michigan (Mr. BONIOR) for yielding to me.

Mr. Speaker, I am pleased to announce that the House has completed its legislative business for the week. The House will meet next week for legislative business on June 19, 2001, at 12:30 p.m., that will be for morning hour, and will meet at 2 p.m. for legislative business.

The House will consider a number of measures under the suspension of the rules, a list of which will be distributed to Members' offices tomorrow.

On Tuesday, no recorded votes are expected before 6:00 p.m.

On Wednesday, and the balance of the week, the House will consider the following measures, subject to the rules: the Supplemental Appropriations Act and the Agricultural Appropriations Act.

On Friday, Mr. Speaker, no votes are expected past 2:00 p.m.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for his remarks and would like to inquire of him on what days the gentleman expects next week to bring up the supplemental and on what days the ag appropriation bill?

Mr. ARMEY. If the gentleman will continue to yield, the supplemental we expect to have on the floor on Wednesday; and we would put agriculture appropriations on Thursday, with the expectation that it would run into Friday.

Mr. BONIOR. If by some chance we finish ag on Thursday, would that necessitate a session on Friday? Or would that still be left up in the air?

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman's inquiry. In fact, if we do manage to finish the bill on Thursday, we would probably then extend Friday for work back in the districts.

Mr. BONIOR. Let me ask this question of the gentleman from Texas, my

friend. There are reports that on the HMO bill, the gentleman plans to bring their bill to the floor before the 4th of July. Are we likely to see that come to the floor next week?

Mr. ARMEY. I appreciate the gentleman's inquiry, but while we are placing extremely high priority on the HMO reform and would have hopes to have it on the floor before the 4th of July, I think that it is clear it will not be available next week. My own view is that we would probably expect it soon after the 4th of July at the earliest.

Mr. BONIOR. Finally, Mr. Speaker, if I could just raise this issue with the gentleman from Texas, the distinguished majority leader, I wanted to inform the gentleman that we now have 198 signatures on a discharge petition for school modernization.

There are 21 Republicans who have sponsored the Nancy Johnson-Charlie Rangel bill on school modernization. I would hope that this bill could be brought before the body. The need is obvious, all around the country with one out of every three schools having serious school refurbishing and modernization needs.

If I could just take one other minute, I would like to just relay to my colleague regarding a school that I visited in the Detroit area recently. It was built in 1926, and it was built to hold 900 students. It has 1500 students in it, 40 to a classroom, many of the obvious problems that we see with our schools, windows, heating problems, the unavailability of privacy in bathrooms, water not working.

These issues are prevalent in our schools throughout the country. Many of our schools need support in the endeavor to refurbish and to modernize. And there is bipartisan support for this bill.

I am just hoping that Members on the other side of the aisle will ask their leadership to bring this bill to the floor. If they do not, I am hopeful that they will join us to go to 218 so we can discharge it.

Having said that, I thank my colleague for his schedule for the remainder of the week and next week and I wish him a good weekend.

Mr. ARMEY. I thank the gentleman.

ADJOURNMENT TO MONDAY, JUNE 18, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, JUNE 19, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, June 18, 2001, it adjourn to meet at 12:30 p.m. on Tuesday, June 19, 2001, for morning hour debates.

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

There was no objection.

□ 1400

DISPENSING WITH CALL OF PRIVATE CALENDAR ON TUESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with on Tuesday next.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

HAPPY FATHER'S DAY

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be the express will of this body that every father in America have a glorious weekend.

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

There was no objection.

FERC LIKELY TO PUT NEW LIMITS ON CALIFORNIA ENERGY PRICES

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

Mr. MCDERMOTT. Mr. Speaker, I am very pleased to report here, on Flag Day, that the oil industry forces of George II are in retreat. A few weeks ago, the Duke of Halliburton, Mr. CHENEY, met with the Oregon, Washington, Montana, and Idaho delegations and said there is no problem, we are not doing anything. Then a few days ago he met with the California delegation and stiffed them in the same way.

Now it turns out in today's newspaper, which I will enter into the RECORD, an article from the Washington Post, they are in retreat. They are going to go down to FERC and finally ask FERC to do what the law says it must do, that is, cap unreasonable prices in electricity.

The United States west of the Rockies has been ignored by this administration, but they are now en route. They are running for the hills. They have dropped their guns. They have torn off their uniforms, and they are running to hide down at FERC.

They are not going to get away with putting in something down at FERC that just does a little something. We want real caps on those gougers. Vote for the Anti-Gouging Act of 2001.

[From the Washington Post, June 14, 2001]

FERC LIKELY TO PUT NEW LIMITS ON CALIFORNIA ENERGY PRICES

(By Mike Allen and Juliet Eilperin)

A federal agency plans to impose new limits on California energy prices next week, according to senior government officials, a move that would offer President Bush and Republican lawmakers relief from an increasingly thorny political problem in the nation's largest state.

The Federal Energy Regulatory Commission plans to hold a special meeting Monday to take up possible solutions to California's power crunch. And officials said yesterday the leading proposal would control the wholesale price of electricity throughout the West around the clock.

Such a measure would expand a rule that applies only to California and only during the most severe power shortages. Gov. Gray Davis (D) has said the current program is shot full of loopholes and does not benefit consumers. Under the new proposal, the government would set a target price—generous enough to permit a profit for efficient producers—and companies would have to justify higher prices in writing, officials said.

The move comes as concern is growing among congressional Republicans that the Bush administration and its GOP allies were losing the political battle over California's energy crisis—and that it could affect the party's fortunes in next year's elections.

House Majority Whip Tom DeLay (R–Tex.) has assigned a team of Republicans to help deflect legislative attacks on Bush's energy policies, and has instructed members to deliver daily floor speeches defending the administration's plans. House Republicans took up Bush's broader energy bill—which focuses on stepping up production—in earnest yesterday in an effort to pass it by midsummer.

Congressional Democrats have been increasing pressure on the administration to address quickly the skyrocketing electricity prices and power shortages in Western states. Sen. Joseph I. Lieberman (D–Conn), the new chairman of the Governmental Affairs Committee, plans to hold a hearing Wednesday—two days after the commission meeting—to examine federal regulation of energy, and his main witness will be Davis.

House negotiations on a bipartisan emergency energy bill for California broke down last week just as Democrats were taking control of the Senate. In response, Rep. W. J. ''Billy'' Tauzin (R–La.), chairman of the Energy and Commerce Committee, and 14 other GOP lawmakers seized on a proposal by Rep. Doug Ose (R–Calif.) to make FERC's rules apply around the clock. Tauzin wrote FERC Chairman Curt Hebert Jr. to urge its adoption.

Hebert scheduled the unusual FERC meeting shortly thereafter. ''Nobody would disagree with the urgency of the situation and the need for the commission to act promptly. We're working feverishly to do that,'' said Walter Ferguson, Hebert's chief of staff.

The commission, composed of three Republicans and two Democrats, is independent. Members are appointed by the president and confirmed by the Senate. Bush and key members of the commission have said repeatedly that they have ideological and practical objections to an absolute cap on

the wholesale price of electricity, which Davis has argued is the best way to prevent electricity from becoming unaffordable this summer.

Federal officials said the commission's less-stringent measure—''face-saving,'' Democrats called it—would help stabilize power prices while overcoming White House and commission members' objections to a cap.

''We aren't overly concerned that this will discourage generation like real price controls would,'' a White House official said. ''A hard cap would be disaster. It would cause electricity generators to shut down.''

Another White House official said that the administration would not take a formal position until the commission has voted and the details are clear, but added that the measure sounded acceptable ''in theory.''

''The president has been calling on the Federal Energy Regulatory Commission to be vigilant in making sure that illegal price gouging does not occur in California or elsewhere,'' the official said.

A California Democratic official said, ''They realized they have been taking a beating on this issue, both in California and nationally. This is the equivalent of Bush saying, 'Uncle.' ''

However, Davis said at a news conference in Sacramento that he remains ''a doubting Thomas'' about the prospects for dramatic action from the commission. ''I've been fighting FERC for over a year,'' he said. ''The federal government has not been doing its job. If they finally do, I'll say, 'It's about time, but thank you.' ''

Sen. Dianne Feinstein (D–Calif.) said the measure being considered ''would be a flexible price cap, set at the price of least-efficient megawatt of the least-efficient plant.''

''Price mitigation appears to be a way to avoid using the words 'price cap' or 'cost-based rate,' which some members of FERC and the Bush administration find objectionable,'' Feinstein said. ''I don't care what they call it, as long as they get the job done.''

In April, FERC issued a price restraint plan that established cost-based price ceilings for generators selling wholesale power in the state, but limited the measure to power emergencies when California's available power reserves drop below 7.5 percent of demand. The order is credited with helping bring down California's electricity prices, which dropped below $100 a megawatt hour statewide last week for the first time since the crisis began last autumn. Fuel conservation, milder weather and increased generating capacity also have played a part.

House Republicans, after the first hearing on Bush's energy package yesterday, held a closed-door meeting with administration officials and outlined an ambitious schedule for enacting it. According to participants, House panels would pass legislation over the next several weeks so the entire chamber could vote before the August recess.

The meeting in DeLay's office included more than a dozen House members as well as Energy Secretary Spencer Abraham, Interior Secretary Gail A. Norton and Environmental Protection Agency Administrator Christine Todd Whitman.

Much of the meeting focused on how the GOP could fight Democratic attacks more effectively. Abraham suggested Republicans could rebut the Democrats' arguments because they were based on ''flimsy evidence,'' while DeLay argued his colleagues could not afford to be passive, sources said.

''We want a proactive message,'' DeLay told the group. ''We want solutions, not rationing.''

Democrats are convinced the GOP is politically vulnerable on the question of energy, and they are determined to hammer away at the theme to boost their chances in next year's election. ''The environment is an issue that could decide many swing congressional districts in 2002,'' said Rep. Edward J. Markey (D–Mass.), who questioned Abraham sharply yesterday during an energy and air quality subcommittee hearing.

The party has already run a series of radio ads on the energy crisis in the districts of several vulnerable members, and House Democrats now regularly hold news conference accusing the GOP as being beholden to special interests.

Staff writer Peter Behr contributed to this report.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DISTURBING DEVELOPMENTS IN THE NAGORNO-KARABAGH PEACE PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I come to the House floor this afternoon to discuss some disturbing developments in the Nagorno-Karabagh peace process among Armenia, Azerbaijan and Nagorno Karabagh.

In April, the leaders of two of these nations, Armenia and Azerbaijan, met in Key West, Florida, and all indications were that they were getting closer to reaching a peace agreement. Despite such indications, Azerbaijan's president, Jeydar Ailyev, has effectively called a halt to the peace process, and now declares that Azerbaijan is ''ready for war at any time it is needed''.

Obviously, Mr. Speaker, this statement not only does not promote peace, but actually serves to increase tensions. If Azerbaijan's leader is serious about ending the conflict between his country and Armenia, he should stop catering to militant factions within his country. This conflict has been going on for over 10 years now and is being unnecessarily drawn out by Mr. Ailyev.

Mr. Speaker, the United States is one of the co-chairs of the Minsk Group, the body under the Organization for Security and Cooperation in Europe, the OSCE, charged with facilitating a negotiated settlement to this dispute. Besides the political investment in the peace process, our Nation also has a vested interest to bring about stability in this region.

In order to achieve this, Azerbaijan and Armenia must embrace greater economic integration, development of infrastructure and cooperation in other areas. This is the path that President Ailyev must be encouraged to follow. Indeed, the benefits to his country would be significant by opening his nation to substantially more trade, investment and assistance. However, any kind of economic cooperation between the two countries must begin with Azerbaijan lifting a decade long blockade on Armenia.

Mr. Speaker, section 907 of the Freedom Support Act makes the United States' position on this blockade very clear to Ailyev, and he has tried unsuccessfully to demand repeal. What section 907 does is to effectively limit some forms of direct American aid to Azerbaijan until that country lifts its blockades of Armenia and Karabagh. It is important to know that this law has no effect on humanitarian aid, democracy building measures, as well as OPIC, TDA and Ex-Im engagement.

Mr. Speaker, I would also like to strongly encourage Mr. Ailyev to drop the refusal to accept direct participation of representatives from Nagorno Karabagh in the negotiations. The Nagorno-Karabagh conflict is not only a bilateral dispute between Armenia and Azerbaijan. While these countries must obviously be part of the negotiations and the final settlement, the people of Karabagh, who have their own democratically elected government, must have a seat at the table. After all, it is their homeland and their lives that are at stake in this peace process. No one else should be allowed to make life and death decisions for them.

Armenia and Nagorno Karabagh have continued to reiterate their commitment to the peace process even in the face of stalling and the ongoing threatening comments coming from Azerbaijan.

These tactics are nothing new. In November of 1998, the OSCE submitted a comprehensive peace proposal to Armenia, Azerbaijan and Nagorno Karabagh. Despite serious reservations, both Armenia and Nagorno Karabagh accepted a peace proposal as a basis of negotiations. Azerbaijan summarily rejected it.

On June 14, 1999, the Azeri military attacked Karabagh's defensive forces along the Mardakort section of the Line of Conflict between Azerbaijan and Karabagh. Representatives of the OSCE, who visited the area, confirmed this act of aggression.

Mr. Speaker, Armenia's Foreign Minister, Vartan Osakian, said this past week that Armenia was ready to resume talks. He also urged Azerbaijan not to deviate from the ''Paris principles'', the understanding developed by the Armenian and Azerbaijani presidents during two rounds of talks in the French capital in January and March, and in Key West in April this year.

According to Ambassador Carey Cavanaugh, the U.S. representative to the Minsk Group, these negotiations have made real progress. He stated in an interview with the U.S. Department of State that both presidents felt that, after their last meeting, that substantial progress had been made that exceeded both their expectations.

Mr. Speaker, Armenia and Nagorno Karabagh are ready to settle this dispute. They have fully committed to

peace and have fully cooperated at every turn with OSCE representatives. They have taken risks for peace despite a decade-long blockade of their countries and frequent acts of Azerbaijani aggression.

I strongly urge President Ailyev, if he is serious about peace, to come back to the negotiating table, cease all calls for military action, and end the oppressive blockade against Armenia and Nagorno Karabagh.

PRE-AUTHORIZATION REQUIREMENTS OF THE STANDARD TRADE NEGOTIATING AUTHORITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, as the United States grapples with an historically large trade deficit, and many of our farmers and manufacturers face growing and cumulative competitive disadvantages in the international marketplace, the time has come for Congress to work with the administration on behalf of a stronger trade policy.

Clearly, the centerpiece of a new and more aggressive trade policy has to be new authority which allows our government to pursue trade agreements that level the international playing field for American workers and American products. Congress must act quickly and firmly to give our trade negotiators the authority they need to defend our interest and open distant markets to the creation of our sweat, ingenuity and freedom.

Last week, I outlined to the House the major provisions of my bill, H.R. 1446, the Standard Trade Negotiating Authority Act. At that time, I promised this House I would return and discuss at greater detail the major components of this bill.

Today, I would like to focus on the pre-authorization requirements. This section requires the President to consult with Congress and receive an affirmative vote to authorize the initiation of trade negotiations with any country or countries before proceeding with them. WTO negotiations, which are already authorized by existing agreements, would be exempt from this pre-authorization requirement.

Mr. Speaker, Section 8 of Article I of the Constitution specifically grants to Congress the authority to regulate commerce with foreign nations. Unfortunately, over the last several decades, Congress has almost entirely ceded the policy making initiative over this increasingly vital part of our national economy. Under Fast Track, we eliminated our oversight and opportunity to influence the outcome of potentially far-reaching agreements to one single up-or-down vote.

I believe this lack of input and transparency has led directly to the increasing controversy surrounding trade agreements and the inability of the Nation to have an intelligent and conclusive discussion about trade policy.

For example, NAFTA was never contemplated during the Fast Track authorization then in existence. In 1988, when we last authorized Fast Track authority, NAFTA was not even discussed. But within a couple of years, NAFTA was brought back in toto for an up-or-down vote.

Likewise, the 1994 GATT agreement included changes to section 201 and 301 of our trade laws, the antisurge and antidumping provisions, without any prior discussion in Congress.

How then would the pre-authorization requirements of H.R. 1446 address these concerns?

First, Mr. Speaker, my bill provides ongoing authority for the President to negotiate any trade agreement, providing first that he receives approval from Congress in the form of a vote to specifically authorize that negotiation along with its scope and its objectives.

This means that each negotiation can be considered under its own merits and provides for a systemic review by the Congress while there is still some time to affect the outcome.

There will be no more surprises, not for us, and more importantly not for the people we represent.

Under this legislation, 90 days before entering into trade negotiations, the President would formally notify Congress of his intention to proceed. The International Trade Commission would also be required to complete an assessment of the potential impact of the agreement on the U.S. economy.

Legitimate labor and environmental concerns would find voice in this process through the establishment of a Commission on Labor and the Environment. The Commission would issue a report to Congress and the President laying out specific concerns and negotiating objectives prior to the vote by Congress on pre-authorization.

This careful review process allows the Congress to deal with the reality that not all proposed negotiations are created equal.

It is certainly the case that a bilateral trade agreement with Australia would raise very different issues and different concerns than one with Egypt or Laos.

Hemispheric trade proposals may raise labor and environmental concerns which have no relevant place in a negotiation involving financial services or competition policy.

For these reasons, our negotiating strategy and goals must be flexible if we are to maximize the opportunities before us. The law should recognize this reality while still remaining true to our constitutional obligations as a Congress.

Some may attack this proposal because it would require two votes by Congress, not just one, one before a negotiation and one to approve the final agreement. I say so much the better.

The government should speak plainly and honestly to our citizens. Our trade policy should be shaped in direct consultation with working families throughout the United States, speaking through their elected representatives.

Goals and objectives should be spelled out. Details matter. If we want to restore the faith of Americans in trade agreements, we must be forthright in spelling out our objectives, and we should have nothing to hide.

Pass this legislation and give the administration the authority they need.

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 California (Mr. HORN) is recognized for 5 minutes.

(Mr. HORN 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 Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TROUBLE IN THE PHILIPPINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I want to draw the House's attention today to the events that are unfolding in the Philippines, an area that is only 3 hours by flying time to my home island of Guam.

I am troubled by the recent events unraveling in the Philippines in regards to the allegations that the Abu Sayyef, a band of separatists from the southern Philippines, have kidnapped and have killed an American, this is still unconfirmed, and are holding some 20 more people, including two other Americans, as hostages.

I happened to be in Manila on an official visit over the Memorial Day recess when this tragedy occurred. As the lead official from the U.S. at the time in the Philippines, I participated in a number of meetings which were designed to try to help deal with the crisis as well as many other issues that were affecting Philippine-U.S. relations.

Today, I would certainly urge each and every American to continue to support President Gloria Macapagal-Arroyo in her heroic and courageous efforts during this very tense standoff. She has made it clear up till now that

she intends to stand firm and not pay any ransom for this most recent rash of kidnappings in her country.

The United States and the Philippines have a very long and proud history of friendship and cooperation, although not always in agreement on each and every issue, thus punctuating the need to continue to work closely with the Philippines in helping them resolve this internal crisis.

I understand that the new administration's, President Bush's administration, strategy review is expected to cast the Asian Pacific region as perhaps the single most important region for military planners. I cannot agree with this renewed focus more. Of course it will bring more attention, not only to my home island of Guam, but to our relationship with the Philippines.

While in Manila, I met with President Arroyo, participated in a series of discussions with Vice President Guingona, who is also concurrently the Secretary of Foreign Affairs, about the implementation of the visiting forces agreement between the U.S. and the Philippines which was formulated in 1999.

□ 1415

This positive step forward hopefully will revive and reinvigorate the security relationship between our two countries, which has declined following the U.S. withdrawal from the military bases there in 1992.

I also drew attention to some of the cleanup issues that are remaining from Clark Air Force Base and Subic Bay Naval Station, formerly U.S. sites, which I also visited. I think it is important that we have a clear understanding of the problems that continue to exist. Last month, the House passed my amendment to the foreign relations authorization bill, which encourages a nongovernmental study to examine environmental contamination and any health effects emanating from these former U.S. facilities. I want to make clear that the United States is not legally required to provide cleanup, but we continue to have a moral obligation to at least investigate and do what we can.

A new study on May 14 by the RAND organization entitled ''U.S. and Asia—Toward a New U.S. Strategy and Force Posture'' reinforces the current administration's thinking by outlining the importance of an engaged United States in the Asia-Pacific theater. This study argues that the U.S. engage in new relationships with the Philippines and with Guam. Specifically, the study reports that the U.S. should expand cooperation with the Philippines and that the Philippines may present an interesting opportunity to enhance Air Force access in the western Pacific. I could not agree any more with that study.

The Philippines is an important country to the United States, not only because of our long historical relationship but because of our new strategic posture and challenges that we face in this century. I urge all House Members to consider this information and to consider this important piece of our puzzle, our strategy puzzle, in the Asia-Pacific region.

The SPEAKER pro tempore (Mr. ISSA). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. ROEMER) is recognized for 5 minutes.

(Mr. ROEMER 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 Missouri (Mr. HULSHOF) is recognized for 5 minutes.

(Mr. HULSHOF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PRESIDENT PROPOSES TO CEASE LIVE COMBINED ARMS TRAINING ON VIEQUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BUYER) is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, I am disappointed to come to the well today to learn that President Bush is proposing to cease live combined arms training on the Puerto Rican island of Vieques by 2003. In short, the President and his administration are ignoring the issue of military readiness and national security.

In opinion editorials, congressional testimony and official DOD press releases, the Commandant of the Marine Corps, General James Jones, and the former Chief of Naval Operation, Jay Johnson, repeatedly stressed to the Clinton administration the importance of combined arms training at Vieques. Their simple and continued message has been very clear: ''Without Vieques, the Second Fleet cannot train, evaluate, or certify Battle Group/Amphibious Ready Group teams for combat operations.''

In fact, Admiral Johnson testified in a hearing in 1999 that ''Vieques is not only the sole training facility on the East Coast that offers crucial combined live arms training, the range also serves as a model for the world because it offers the ability to conduct actual time synchronization of air, ground, surface, and subsurface components with live ordnance.''

Even former President Clinton's special panel on military operations on Vieques concluded that ''the separation of certain aspects of current training into their component parts cannot replicate the ideal solution that has been available by the integration of all operational activities at Vieques.''

Meanwhile, it appears that this decision will and could perhaps put American men and women at risk in the future. Why? Because it denies them the necessary combined arms training needed to succeed in combat operations. From World War II through our most recent crisis in Kosovo, our Nation's military has been able to meet our Nation's call to arms because of the preparation we afford them at training ranges all over the world but in particular here at Vieques. History has taught us the success or failure of our Nation's military and the risk of loss of life is a direct function of the preparation we afford them prior to combat. Closing the Vieques training range will result in a significant loss of critical combat training, which is essential to our Navy and Marine forces.

Whether it was the Gulf War, that I participated in, or other military operations, we are beginning to dull our own Nation, as if we can place our men and women at risk and somehow, if we are able to conduct these operations with standoff weapons, that there will be no risk of life. We should fall upon our knees and thank the military leaders, those tough NCOs that are out there, those master sergeants, those lieutenants and company commanders who are doing the tough training, because that is what saves lives on the battlefield. And when they train on the ground, it has to be coordinated not only from the sea but also from the air for a combined operation.

I was on the island of Vieques. They need to be able to land the Marines, and the Marines landing need to be able to call in; whether it is naval gunfire, whether it is artillery, or whether calling in from the ship to air, the air to land, but all coordinated on one point. Why? To increase the lethality. Now that sounds brutal, but what is fighting our Nation's wars about? It is bringing lethality to a particular point in time so we can win on the battlefield.

So I am very disappointed that someone down at the White House or others have made judgments without being very good listeners to our military planners, and I appeal, I appeal to the administration to rethink what they have done here. There is absolutely no substitute for training with live ammunition. Do not succumb to the temptation that live fire combined with arms training on Vieques can be duplicated elsewhere or overemphasize simulation

technology. While simulation is valuable training, our servicemen and women will ultimately be playing Nintendo and think that that is war.

Finally, Mr. Speaker, let me remind the President of the United States, this Congress, and the American people about the essence of combat operations. In short, combat is to close with and destroy the enemy by firepower and maneuver and/or close combat. This applies to all aspects of military operations, whether it is air, whether it is on land, or whether it is sea. It is dirty, it is ugly business, and war fighting requires the confidence and ability to handle live fire.

FATHERHOOD RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON of Indiana. Mr. Speaker, I have introduced today a resolution to promote responsible fatherhood for Father's Day.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentlewoman yield?

Ms. CARSON of Indiana. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, in addition to supporting the great efforts of the gentlewoman from Indiana, I would like to be able to acknowledge that we are filing today H. Res. 166 that will commemorate and thank all of the valiant heroes and volunteers in the city of Houston and surrounding areas through Tropical Storm Allison.

Might I say, Mr. Speaker, that these volunteers deserve this recognition. They are still out on the battlefield fighting, and there are those who are still suffering as well as those who have lost their lives. We will honor these volunteers with H. Res. 166, signed by a large number of the members of the Texas delegation, and thank them for the valiant effort they performed during Tropical Storm Allison.

And I thank the gentlewoman from Indiana for yielding to me, Mr. Speaker.

Ms. CARSON of Indiana. Mr. Speaker, I wish to let the gentlewoman from Texas know that my heart goes out to her and all the people who were affected by that devastating flood situation in her district.

Mr. Speaker, I have introduced a resolution to promote responsible fatherhood on behalf of Father's Day. Twenty-nine members of the Congressional Black Caucus, including the gentleman from Illinois (Mr. RUSH), have joined me as cosponsors of the resolution.

In introducing the resolution, Mr. Speaker, we aim to raise the awareness of the importance of fathers being involved in the lives of their children. I understand that all men are not deadbeat dads, some men are simply dead broke. I am probably one of the very few Members of Congress who knows personally what it is like to grow up in a home without a father. My experience growing up fatherless is what has stirred my passion to become a leader in this movement.

Fatherlessness affects our children in more ways than we can count, preventing our children from fully reaching the potential we know they have within. While there are millions of fathers who actively support their children, there are many others who do not due to financial or social circumstances. Many absent fathers are part of the working poor and may wish to aid their children but simply cannot financially.

The goal of the fatherhood resolution is to promote responsible fatherhood, the emotional and financial support of one's children. In wishing all of God's children, all of our Father's children, a happy Father's Day, which is coming up on Sunday, I wanted to call my colleagues' attention to the promotion of this effort, of the bill that we have in, H.R. 1300, which would authorize block grants to fund programs at the local and State level, nonprofit organizations, et cetera.

The Responsible Fatherhood Act of 2001 has already garnered broad bipartisan support in both the House and the Senate, and I would encourage my colleagues to cosponsor this bill to provide men with the tools and the resources necessary to become responsible fathers.

Mr. Speaker, I offer my Happy Father's Day to you too.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MISSILE DEFENSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I thought I would take the well and talk a little bit about the hearing that we held today in the Subcommittee on Military Research and Development of the House Committee on Armed Services concerning the issue of missile defense.

What we did today, Democrats and Republicans, is talk to General Kadish, who heads the missile defense program for this administration, for this Nation; and we talked specifically about tests: where are we, what have we done, what works, what does not work, and where do we need to go.

One thing that General Kadish led with, which I thought was very important for Americans to understand, is that we have made progress and that we have accomplished some very important things for America. The first one goes back to the killing of 28 Americans in the Desert Storm operation when Iraqi scud missiles, which are ballistic missiles, they go about 50 percent faster than a 30.06 bullet, came in and hit a concentration of American troops, resulting in 28 deaths. We fired back as much as we could with the then Patriot missile system. At the end of that conflict, we had MIT come in and analyze whether or not we had gotten any of those missiles. One of the experts from MIT said he did not think we got any. The Army said they thought we got about 80 percent, they were not sure, but that we did have some problems.

Well, since that time, since the early 1990s, during Desert Storm, we have developed a missile defense system, now called PAC–3, the Patriot 3 missile defense system, which can shoot down on a regular basis, on a consistent basis, on a reliable basis, those incoming scud ballistic missiles. We have now had eight tests, and every one of those eight tests has intercepted.

I hear a lot of folks talking about whether or not we can hit a bullet with a bullet, because it sounds so impossible. Well, a bullet from one of our Capitol Hill policemen, a 38 bullet, for example, goes about 1,200, 1,400 feet per second. A scud missile goes maybe 7,000 feet per second. That is a scud ballistic missile. So it goes as much as four to five times as fast as some bullets. And even if we take a very high velocity bullet, a big-game rifle or a rifle that one would use on the battlefield, like a 30.06 that goes about 3,000 feet per second, a scud missile even goes about twice as fast as that bullet.

□ 1430

And the Patriot missile system that we fire at that thing, goes in excess of 4,000 feet per second. So both the target missile, that is the ballistic missile, and the missile that we shoot up to knock it down, go faster than a bullet. And eight times in our tests, we have successfully hit a bullet with a bullet.

What does that mean. Well, it means to Americans who are thinking, as they sit around the breakfast table with their family and child who may join the armed services and be stationed in the Middle East or on the Korean peninsula, it means that this country, in response to the missile threat, working as hard as it can in developing technology as quickly as possible, has developed a defense, at least against these scud missiles that are being proliferated around the world, which we are apt to see in a conflict in the near future.

It means when you have a base camp with a Marine expeditionary unit filled with 19- and 20-year-old kids from all of the farms and cities of this country or a part of the 101st Air Mobile Brigade out of Fort Campbell, Kentucky or an Air Force unit stationed somewhere enforcing the no-fly zone, it means if our adversaries launch a ballistic missile, that is a pretty slow ballistic missile as they go, but still as fast as a bullet, if they launch a scud missile attack at that contingent, our PAC–3,

our Patriot 3 system which we are now in the business of fielding, we have tested it, would be able to handle that attack and allow our young men and women to come home alive.

So we established that. Now, General Kadish, having established that, showed the members of the Committee on Armed Services the footage of a number of tests that we have made. He said, We have missed some; and we have hit some. He laid out a program that we need to undertake in the next 5–10 years to develop a capability that is better and better. We are moving ahead. We are going to have robust testing. We are going to defend America.

FATHER'S DAY IS ABOUT MORE THAN PRESENTS

The SPEAKER pro tempore (Mr. ISSA). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, all over America we are hearing the words, ''Happy Father's Day.'' I come to the floor this afternoon to remind America that Father's Day is about more than presents. What are the children without fathers to do?

Fully a third of our children in our country are without fathers, being raised by one parent, usually a woman. The numbers are increasing at an alarming rate. The only thing harder than raising children is one parent raising children. Often that is the case today. If there are one-third of children without fathers today in the home, in the African American community that number is two-thirds.

The results are appalling to family formation. Chronic joblessness among black males, disproportionate numbers in prison which keep family formation from occurring in the usual way, led me to search for answers. I have been involved in a number of activities, and the most recent was inspired by the Million Man March in 1995. I was concerned that something concrete should come out of this march to capture the energy of almost a million African American men coming to Washington to indicate they were going to do something about reconstruction of their communities and of black family life itself.

Yet when they went home and said what am I to do, well, some in fact found lots to do. But for the average unaffiliated black man, there was nothing to capture that energy.

Mr. Speaker, I believe that government and business and unions and communities ought to have a response so that this energy could be used to the highest and best effect. I conceived the idea of a commission on black men and boys that would allow black men and boys in the District of Columbia to get together to indicate what to do and how to do it. Recently we received funding from the Department of Labor.

This commission, set up in the District of Columbia, will be holding hearings; will identify available sources of government and community and private assistance for black men and boys in the District of Columbia; and will point out what the successes are and what the needs and gaps are. The point is it is not another study, ladies and gentlemen. We know the problem is acute. This is an opportunity to get down to brass tacks, tackling one of the great problems in our country which is fatherlessness, one-parent homes in the African American community, rapidly spreading throughout the United States.

George Stark, the former Redskins offensive lineman, is the chair. We have one of our former police chiefs on the commission, the president of the District of Columbia student body, a high school representative, and other men in the city who have been involved in the activities of black men and boys.

The most important manifestation of the accumulated difficulties of African American men is the failure to form families and extraordinary patterns of family disillusion. This is a frightening trend that is traced to an essential actor in the African American community: the black male. We cannot do without him. Black feminists like me have been able to draw attention to what has happened to the women raising these children alone, what happens to girls who get pregnant when they are teens. We are bringing that down. It is time to focus on the black man, the other essential actor.

When we do so, we can halt this frightening trend which is already having domino generational effects that endanger the children of the African American community. Further delay in bringing a strong, concentrated focus on black men and boys before they become men quite simply threatens the viability of the African American community as we have known it historically in our country from slavery to this very moment.

We hope that our own Commission on Black Men and Boys here in the District of Columbia will serve as a model for what other communities can do to bring a focused attention led by black men and boys themselves on an urgent problem in the African American community and in America at large.

REBUILD MILITARY TO ENSURE THAT FREEDOM AND NATIONAL SECURITY ARE PROTECTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, the gentleman from California (Mr. HUNTER) was on the floor just a few minutes ago talking about missile defense systems and the need for missile defense systems.

I would like to speak today about some of the activities of China selling military wares to Cuba. In my district, and I have the privilege to represent the third district of North Carolina, we have Camp Lejeune Marine Base, Cherry Point Marine Air Station, Seymour Johnson Air Force Base, and actually a Coast Guard base in Elizabeth City. I am proud to represent a district where there are so many men and women in uniform that are willing to die for this country; and certainly those who are retired, veterans and retirees, I thank them for their service.

I am concerned that too many times we in this country take our freedoms for granted, and that is somewhat normal. But having a military district and being on the Committee on Armed Services, along with the gentleman from California (Mr. HUNTER), I am concerned that too many times we, as Americans, take freedom for granted. This is a very unsafe world we live in. There is a need to spend money to rebuild the military to ensure that the freedoms that we enjoy and the national security of this Nation, that we are well protected.

I want to bring up a couple of points. This is a Washington Times article from Wednesday, March 28, 2001. Admiral Blair was speaking to the Senate Committee on Armed Services, and he warns of perilous buildup of Chinese missiles. I want to read this quickly.

Mr. Speaker, the commander of U.S. forces in the U.S. Pacific told Congress yesterday that '''China's ongoing missile buildup opposite Taiwan is destabilizing, and will lead to a U.S. response unless halted. Over the long term, the most destabilizing part of the Chinese buildup are the immediate-range and short-range ballistic missiles, the CSS–6's and 7's, of the type that were used in 1996 to find the waters north and south of Taiwan,' said Admiral Dennis Blair, the Pacific commander leader.''

I wanted to share that, Mr. Speaker, because again I think that we as a Congress understand our constitutional duties, and that is to ensure that we have a strong military.

Tuesday of this week another one of our colleagues, the gentleman from Pennsylvania (Mr. PITTS), who is a veteran of the Vietnam War, came on the floor talking about China selling military materials to Cuba. I wanted to come to the floor with this enlargement of the Washington Times article that he made reference to that says China is secretly shipping arms to Cuba, and just again to say to my colleagues in the House as well as the Senate, soon we will be debating an emergency supplemental for our military. I think it is $5.8 billion, I wish it were closer to $9 billion, but we will debate that issue later.

This is an unsafe world, and we must be sure that we are well prepared to defend the national security interests of this country because as we all went back on Memorial Day to pay homage to those who have given their life as well as to those who have served, we

must always remember that freedom is not free; and to ensure that we have the freedoms that we enjoy, we must continue to invest, as the gentleman from California (Mr. HUNTER) was saying, in a missile defense system.

And I am saying today, as have many of my colleagues on both sides of the aisle, and the gentleman from Missouri (Mr. SKELTON) has been on the floor talking about this issue, he is the ranking member of the Committee on Armed Services, this year we must be sure that we work with a President who campaigned and said that we need to rebuild the military.

Mr. Speaker, I thank the men and women in uniform; and I say respectfully, God bless America, and God bless those who served this Nation.

CONGRESS NEEDS TO ADDRESS DRUG ABUSE AND DRUG ADDICTION PROBLEMS IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

Mr. CUMMINGS. Mr. Speaker, as I listened to the last speaker talk about our national defense, and I certainly agree that we must do everything in our power to make sure that our country is safe, I come before the House this afternoon to address another issue that certainly goes to our national defense. It is one that if we are not careful to address from many different angles, we will find that it will erode our country from the inside.

Mr. Speaker, that is the subject of drug abuse, drug addiction, how to address this problem in this new century.

Just a few weeks ago, President Bush announced his nominee for director of the National Drug Control Policy Agency. As ranking member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources and one of the representatives of Baltimore, a city plagued by drugs and its related social ills, I must stress to my colleagues the importance of drug treatment and the significant role it plays in our national drug control policy.

I appreciate the fact that President Bush and the nominated ONDCP director, John Walters, both of them have affirmed their commitment to increased funding for drug treatment and prevention.

□ 1445

I look forward to reviewing their proposals. We must work together to ensure that drug treatment dollars spent are spent effectively and efficiently and that they work to save lives, families and eventually entire communities.

Drug addiction is a disease that poses a serious national public health crisis which requires a strong Federal response. If we do not act now, a whole new generation of Americans will be exposed to the high social, economic and health costs associated with addiction. In this Nation today, the annual economic cost of drug abuse and dependence in loss of productivity, health care costs and crime have been estimated at $256 billion. Before I discuss how drug treatment works to address the crisis, I must first outline the impacts drugs have had not only on my City of Baltimore but also on this Nation as a whole. In many instances, it disproportionately targets minorities.

Like many communities in our Nation, Mr. Speaker, Baltimore, Maryland and its populace have suffered from the ill effects of drug addiction and its related crime. The low price, high purity and availability of heroin in the city have had a dramatic impact on the city's population. According to the Drug Enforcement Administration, one out of eight citizens of the City of Baltimore is addicted to drugs. They spend an estimated $1 million a day on illegal drugs in the city. In 1998, 252 of the 401 heroin overdoses documented in Maryland occurred in Baltimore City. Baltimore is ranked second in the rate of heroin emergency room incidents and, as in many urban areas, illegal drug activity and violent crime have gone hand in hand. Open air drug markets in areas that are known for drugs are not only havens for drug dealers, users, customers and criminals, but are also hot spots for violent crime. It is estimated that more than 70 percent of crimes are committed by individuals that are under the influence of drugs.

The Baltimore-Washington region has been designated as a High Intensity Drug Trafficking Area, better known as a HIDTA. Established in 1994, it is one of the 28 antidrug task forces established and financed by the White House's Office of National Drug Control Policy. The Baltimore police department estimates that 40 to 60 percent of homicides are drug-related. Baltimore has endured 10 straight years of more than 300 homicides each year, making it the fourth deadliest city in the United States. I am pleased to say that the year 2000 marked the first time in 10 years our murder rate was below 300.

The city has made tremendous strides in this area. I strongly believe that drug treatment must be made more widely available to low-income users without the prerequisite of arrest and involvement in the criminal justice system. Sadly, low-income drug users are more likely to become involved in the criminal justice system due in part to the shortage of treatment options available to them. Given this shortage, in many inner city areas, drug abuse is more likely to receive attention as a criminal justice problem rather than a social/health problem.

A recently released 3-year study by the National Center on Addiction and Substance Abuse at Columbia University, entitled ''Shoveling Up: The Impact of Substance Abuse on State Budgets,'' reveals that in 1998 States spent approximately $81.3 billion on substance abuse addiction, 13.1 percent of the $620 billion in total State spending. Of each dollar, 96 cents went to shovel up the wreckage of substance abuse and addiction; only 4 cents to prevent and treat it. The study looked at 16 areas of State spending, including criminal and juvenile justice, transportation, health care, education, child welfare and welfare, to detect how States deal with the burden of unprevented and untreated substance abuse. They found that the $77.9 billion was distributed as follows: $30.7 billion to the justice system, $16.5 billion for education, $15.2 billion for health care, $7.7 billion for child and family assistance, $5.9 billion for mental health and developmental disabilities, $1.5 billion for public safety. According to the study, States spend 113 times as much to clean up the devastation that substance abuse visits on children as they do to prevent and treat it.

The study reports that the best opportunity to reduce crime is to provide treatment and training to drug and alcohol abusing prisoners who will return to a life of criminal activity unless they leave prison substance free and upon release enter treatment and continuing aftercare.

Although the State of Maryland is making strides, I believe that we can do more. According to the CASA report, 10.2 percent of the budget is spent on the highlighted programs that deal with societal effects of drug addiction, while only .03 percent is spent on prevention, treatment and research. That means for every substance abuse dollar spent in the State, a mere 3 cents is used for treatment. We can do better.

I am pleased to note that the State of Maryland's drug treatment funding has risen. In fact, Governor Parris Glendening has proposed a $22 million increase in the State funding for drug treatment in the next fiscal year, of which more than one-third will go to Baltimore, where it is desperately needed.

Nationally, over 50 percent of all crimes are committed by individuals under the influence of drugs. The National Institute of Justice's ADAM drug testing program found that more than 60 percent of adult male arrestees tested positive for drugs. The National Center on Addiction and Substance Abuse at Columbia University found that 80 percent of men and women behind bars, approximately 1.4 million, are seriously involved in alcohol and other drug abuse. States estimate that 70 to 85 percent of their inmates need some kind of substance abuse treatment. Less than 20 percent of the inmates receive treatment while in prison.

Although drug use and sales cut across racial and socioeconomic lines, law enforcement strategies have targeted street-level drug dealers and users from low-income, predominantly minority, urban areas.

Unfortunately, this law enforcement tactic has disproportionately and unfairly affected black men. The rate of imprisonment for black men is 8.5 times the rate for white men. Over the last 10 years, black men's rate of incarceration increased at a 10 times higher rate than that of white men. If the current rate of incarceration remains unchanged, 28.5 percent of black men will be confined in prison at least once during their lifetimes, a figure six times that of white men. Black women are incarcerated at a rate of eight times that of white women. The increasing rate of incarceration in general has had a magnified effect on the black population.

Current laws regarding mandatory minimum sentencing are biased at all stages of the criminal justice system. These laws have had a devastating effect on black and Latino communities. The issue can be addressed by ending the disparity between crack and powder cocaine sentencing. The powder form of cocaine that is preferred by wealthier, usually white consumers, requires 100 times as much weight and an intent to distribute to trigger the same penalty as the mere possession of crack cocaine. In 1986, before mandatory minimums instituted this sentencing disparity, the average sentence for blacks was 6 percent longer than the average sentence for whites.

Four years later following the implementation of this law, the average sentence was 93 percent higher for blacks. Possession of crack cocaine, which is prevalent in the African American community, is subject to mandatory minimums. Methamphetamine, which is prevalent in the Hispanic community, receives mandatory minimums. However, for Ecstasy and powder cocaine, which we know are prevalent in the white community, there are no mandatory minimums. We need to establish fair and less racially divisive and polarizing sentencing guidelines.

In reviewing these issues and learning the facts about drugs and crime and their related effects on livable communities, I decided to further explore this issue to identify the problems and what I could do as a Federal legislator to fix them. In March of last year, I requested that the Subcommittee on Criminal Justice, Drug Policy and Human Resources hold a hearing in Baltimore entitled ''Alternatives to Incarceration: What Works and Why?'' The proliferation of drugs in my city has led to an increase in violent crimes, the creation of profit motivated drug gangs and an increase in the prison population. The combination of these elements has led to the destruction of many of Baltimore's youth, families and communities and has been at epidemic levels far too long.

Programs that combine drug treatment, social services, and job placement are frequently discussed as alternatives to incarceration and as tools in reducing the recidivism rate among offenders. The hearing gave us the opportunity to explore such alternatives in an effort to combat the growing societal cost of drug abuse and criminal activity. Witnesses included the chief of police, political leaders, policy experts and treatment graduates. We learned about a program called the Drug Treatment Alternative to Prison program, better known as DTAP. This program, run by the Kings County, New York district attorney's office, combines drug treatment, social services and job placement. It has saved lives and reduced criminal justice problems, health and welfare costs. With adjustments, I believe that this program could go a long way toward assisting nonviolent offenders to getting on the right path.

Maryland's Great Disciple program initiative is another successful alternative that was discussed during the hearing. The Great Disciple program uses drug testing, treatment and escalating sanctions for failed or missed drug tests to reduce recidivism. The program has cut in half the rate of failed drug tests during the first 60 days of supervision and lowered the probability of rearrest by 23 percent during the first 90 days.

Diversion programs like DTAP and BTC work on the premise that with treatment, social services and job placement, offenders return to society in a better position to resist drugs and crime. Such programs lower the costs associated with incarceration, public assistance, health care and recidivism. Further, they produce taxpayers that can make positive contributions to society.

I am well aware that there is no simple solution to combating this crisis. However, I believe that this hearing provided myself and the chairman of the Subcommittee on Criminal Justice, Drug Policy and Human Resources with additional perspectives on how to uplift offenders, eradicate drug-related crime and substance abuse and ultimately revitalize communities in Baltimore and nationwide.

Since that hearing, the gentleman from Florida (Mr. MICA), chairman of the Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources introduced, and the House passed, H.R. 4493, which seeks to establish grants for drug treatment alternative to prison programs administered by State and local prosecutors.

□ 1500

On September 14, 2000, during the Congressional Black Caucus Foundation's 30th annual legislative conference, I hosted an issue forum entitled ''Fighting the Drug War; Reclaiming Our Communities.'' The forum featured a viewing of the motion picture ''The Corner.'' It is a six-part miniseries based on the true story of a family in Baltimore, Maryland, and their struggle with drug addiction and the societal and economic effects of drugs in their community.

The film put a human face on the percentages, facts and figures you have heard about this afternoon. It provided a starting point for our discussion of real people, real issues and real lives. The panel included Dr. Donald Vereen, former deputy director of the Office of National Drug Control Policy, Dr. Peter Beilenson, health commissioner of Baltimore, Mr. Gus Smith, father of Kemba Smith, a student who has been incarcerated 24 years with no parole because of current mandatory minimum sentencing laws. I have already discussed issues related to mandatory minimums and racial disparities in sentencing. I am pleased, however, that prior to the end of his last term, President Clinton commuted her sentence. Mr. Charles ''Roc'' Dutton, Baltimore native and director of ''The Corner,'' was also a part of the panel.

The panel was moderated by Ms. Cherri Branson, former Democratic staffer of the Committee on Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources. Among the various discussion points, those that clearly resonated included the need to address drug problems as a health issue, rather than a criminal justice issue, the treatment gap, and ''The Corner.''

Many in the audience felt that ''The Corner'' helped them to understand what drug-addicted persons face on a day-to-day basis. Mr. Dutton spoke eloquently about his experience directing ''The Corner,'' the HBO miniseries about the life in Baltimore's most drug infested neighborhoods.

One day, while Mr. Dutton's film crew was on location in west Baltimore, they heard the unmistakable sound of gunfire. The police officers who were providing security for the filmmakers raced off to the crime scene. When they returned 20 minutes later, they reported that a young man was lying dead in a nearby alley. Two young boys from the neighborhood overheard the police report, and one suggested that they run down the street to see the dead man. ''No,'' the other replied, ''we see that stuff every day. Let's stay and watch them make the movie.''

Mr. Dutton's account of real life on ''The Corner'' reveals two of the most chilling side effects of our national drug epidemic. While too many of our young people are dying or living destroyed lives, younger children are becoming so hardened by the carnage that they may never enjoy the innocence of childhood.

We can begin to save young lives by understanding that it is within our power to restore the local economies and social fabric of even our most drug devastated neighborhoods. We need only to apply the necessary will, commitments, and resources to this task.

I am convinced that we can prevail in gaining adequate funding for drug treatment, because the crisis we face is not limited to poor African Americans hanging out on the Nation's urban

street corners. Americans everywhere now realize that drugs are one of their biggest problems, too.

In Baltimore we are witnessing a growing grassroots movement that is leading the way toward reversing that appalling distinction. Within the historic East Baltimore Community Action Coalition, the Edmondson Community Organization and Project Garrison, private citizens are combining their personal commitment and their understanding of local drug problems with financial assistance from the United States Department of Justice's Weed and Seed Program and private foundation backing. As a result, these communities are now better able to reclaim their neighborhoods from drug addiction, even as they reclaim their streets from the drug dealers. They understand, as Charles Dutton observed during our Washington forum, that if we want to protect our children, we must do it ourselves.

The statistics, the hearing and the issue forum I have just discussed all point to one important reality: treatment works. Studies show that prevention and treatment programs effectively reduce alcohol and drug problems, but such programs are severely underfunded.

A recent SAMHSA study found that only 50 percent of the individuals who need treatment receive it. Nevertheless, prevention, treatment, and continued research are our best hope for reducing alcohol and drug use and their associated crime, health, welfare and social costs. The 1997 National Treatment Improvement Evaluation Study found that sustained reductions in drug use and criminal activity increased employment and decreased welfare dependence among 5,700 individuals 1 year after they completed treatment. Employment increased by 20 percent and welfare dependence decreased by 11 percent. Crack use decreased by 50 to 70 percent, and heroine use by 46.5 percent. Homelessness decreased by more than 40 percent.

Women's treatment programs show real success. Overall, 95 percent of the children born to women in treatment are born drug free. According to the 1996 data for the Center for Substance Abuse Treatment, Pregnant and Postpartum Women and Infants Program, after treatment 86.5 percent of children were living with their mothers.

Drug treatment means crime reduction. A 1997 National Treatment Improvement Evaluation Study found that with treatment, drug selling decreased by 78 percent, shoplifting declined by 82 percent, assaults declined by 78 percent. There was a 64 percent decrease in arrests for crime, and the percentage of people who largely support themselves through illegal activity dropped by nearly half, decreasing more than 48 percent.

Drug treatment within and outside the criminal justice system is more cost efficient in controlling drug abuse and crime than continued expansion of the prison system. Three-fourths of arrestees test positive for drugs. Only 22 percent have ever been treated for substance abuse. In prison, treatment is only available for 18 percent of inmates.

The Rand study concluded that spending $1 million to expand the use of mandatory sentencing for drug offenders would reduce drug consumption nationally. Spending the same sum on treatment would reduce consumption almost eight times as much.

When we discuss ensuring that our Nation's citizenry has effective and efficient treatment, a cost-benefit analysis is important. For every penny invested in drug treatment, society saves one penny in stolen and damaged property, one penny in victim injuries and lost work, one penny in police and court costs, one penny in jail and prison costs, one penny in hospital and emergency room visits, one penny in preventing infectious diseases and one penny in child abuse and foster care.

According to the California Drug and Alcohol Treatment Assessment, treated substance abusers reduced their criminal activity and health care utilization during and in the years subsequent to treatment by amounts of over $1.4 billion. About $209 million was spent providing this treatment, for a ratio of benefits to costs of 7 to 1.

As I speak of Baltimore, I cannot fail to mention our dynamic health commissioner, Dr. Peter Beilenson, trained at Johns Hopkins University. He has served as a key source of information for me and my staff regarding the extent of the drug abuse and addiction in the city of Baltimore.

In March of last year, Dr. Beilenson had an editorial placed in the Baltimore Sun entitled ''How $40 million more can aid addicts.''

Mr. Speaker, I will place this editorial in the RECORD.

[From the Baltimore Sun, March 6, 2000]

HOW $40 MILLION MORE CAN AID ADDICTS

(By Peter L. Beilenson)

The Consequences of Baltimore's drug problem are well-known: 75 percent to 90 percent of all crimes committed in the city are drug-related and 80 percent of all AIDS cases are a result of injected drug use.

Many businesses have trouble locating drug-free employees, and our schools are full of kids coping with at least one drug-affected parent.

If we want to be serious about dealing with Baltimore's high crime and AIDS rates, and improve our economy and schools, then we must be serious in addressing our drug problem—which is 55,000 addicts strong.

Part of the solution is to reform the criminal justice system as Mayor Martin O'Malley is proposing, which will allow the courts to focus on violent drug-related offenders. However, we cannot simply arrest our way out of the drug problem.

Why? Because while we can temporarily clear our streets of the most violent offenders (who are often related to the drug trade), so long as the demand for drugs remains, new suppliers will take their place. The only way to decrease this demand is to significantly expand substance abuse prevention and treatment.

Baltimore's publicly funded drug treatment system treats about 18,000 addicts a year, and does so fairly effectively. In fact, a national scientific advisory group recently called Baltimore's treatment system one of the best in the country.

That doesn't mean it can't be better. The treatment system is about to begin using extensive performance measures to evaluate individual treatment programs.

But the basic fact remains: We do not have anywhere near the treatment capacity we need.

Our best estimate is that about 40,000 addicts each year will request treatment or be required by the courts to receive it.

For this to happen, the treatment system would need an influx of approximately $40 million—in addition to the current $30 million budget.

What would this $70 million buy? It would allow for treatment within 24 hours of a voluntary request or an order from the courts. Immediate care is crucial because treatment is most effective when addicts admit their problem and seek treatment or sanctions are rapidly enforced.

While getting clean is relatively easy, staying clean is harder. The key to long-term success is keeping recovering addicts drug-free. To that end, it is crucial that we address other problems in their lives. Thus, the $40 million would also provide enhanced services on-site at substance-abuse treatment programs in the city, including mental health and medical services, job readiness training and placement, legal services, housing coordination and day care.

Even in this time of economic prosperity and budget surpluses, $40 million in new funding sounds like a lot of money.

But let's put it in perspective: Crime committed by Baltimore's 55,000 addicts costs an estimated $2 billion to $3 billion each year. The consequences of our city's substance abuse problems are so detrimental to Baltimore's health that fully funded and readily available comprehensive drug treatment is absolutely imperative.

I am so convinced of the importance of this funding and the effectiveness of treatment in preventing crime that I will make this pledge in writing:

If Baltimore's crime rate is not cut in half within three years of obtaining $40 million in additional funding for drug treatment, I will resign.

Additionally, I would like to share some of the information with you now. The article explains why I fight daily for expanded drug treatment and prevention funding.

The drug epidemic we face in Baltimore permeates every aspect of my constituents' lives. Seventy-five to 90 percent of all crimes committed in the city are drug related, and 80 percent of all AIDS cases are a result of injected drug use. Businesses have trouble locating drug-free employees, and our schools are full of kids coping with at least one drug-affected parent.

We have nowhere near the treatment capacity we need. According to Dr. Beilenson, the best estimate is that 40,000 addicts each year will request treatment or be required by courts to receive it. Dr. Beilenson believes that to meet the need, Baltimore City must have at least $40 million, in addition to the current $30 million budget. He believes that it would allow for treatment within 24 hours of a voluntary request or an order from courts. Medical

care is most effective when the addicts admit their problem and seek treatment.

Dr. Beilenson further explains that the additional funds would provide enhanced services on site at substance abuse treatment programs in the city, which would include mental health and medical services, job readiness training and placement, legal services, housing coordination, and day care.

What really hit home for me in Dr. Beilenson's op-ed was the way he put it into perspective. Crime committed by Baltimore's 55,000-plus addicts costs an estimated $2 billion to $3 billion each year, so $40 million is like a drop in the bucket when compared to the potential savings. Dr. Beilenson was so convinced that this $40 million was necessary for the city that he pledged to quit his job in Baltimore if Baltimore's crime rate was not cut in half within 3 years of obtaining that funding for drug treatment. That is the commitment, and I thank Dr. Beilenson for his continued work.

When I urge for increased funding for drug treatment services on the floor, in committee, and in ''Dear Colleagues,'' please know that the city of Baltimore has dedicated people like Dr. Beilenson who will use the funds in the most effective and efficient manner possible.

Expansion of drug treatment can stop the spread of AIDS also. In 1997, 76 percent of the new HIV infections were among drug users. Of those diagnosed with AIDS, drug use is linked to more than 36 percent of adult cases, 61 percent of women's cases, and more than 50 percent of the pediatric cases.

Alcohol and drug treatment effectively prevents HIV disease and costs far less than HIV medical care. Needle exchange programs also have been shown to reduce the spread of HIV and open the door to treatment for injection drug users.

In 1996, a National Treatment Improvement Evaluation Study found a significant reduction in risky sexual behavior among individuals who participated in substance abuse treatment. The percentage of individuals who had sex with an intravenous drug user or exchanged sex for money or drugs dropped by more than 50 percent.

As I stated earlier, it is clear that our drug laws, particularly mandatory minimum sentencing, have fallen disproportionately on black males. This has led to the breakdown of many black family units, entire communities, and undermines efforts to reduce the impact of drug use and abuse.

□ 1515

We do not yet know how effective faith-based drug treatments are. In spite of the fact that faith-based charitable choice provisions have been Federal law since 1996, we have no information on how these programs work.

The General Accounting Office in their 1998 report entitled ''Drug Abuse: Studies Show Benefits May Be Overstated,'' revealed ''that faith-based strategies have yet to be rigorously examined by the research community.''

Last year, the National Institutes of Health and the National Institute on Drug Abuse, in response to an inquiry from the National Association of Alcoholism and Drug Abuse Counselors, wrote:

> Although there are a number of studies emerging that ''faith'' or ''religiosity'' may serve as a protective factor against initial drug use, there is not enough research in the treatment portfolio for NIDA to make any valid conclusive statements about the role that faith plays in drug addiction treatment.

As such, in early April I asked the GAO to investigate the role or effectiveness of faith-based organizations in providing federally-funded social services. If Congress and the President are going to expand the role of faith-based organizations in fulfilling federal mandates via charitable choice, we must have a basis for assessing how these organizations have performed and the effect government support will have on constitutional principles, civil rights, competition within treatment communities, and accountability.

Questions must be asked. Are we prepared to forgo the ''separation of church and State'' by allowing groups to proselytize with public funds or discriminate in employment and the provision of services on the basis of religion, sex, gender, or race?

Who qualifies? Will we create unhealthy competition, with the more dominant or better-financed faiths winning the prize?

How will our government funds be regulated? Will groups forgo the full expression of religious beliefs in exchange for money? Are we comfortable with our houses of worship becoming houses of investigation?

As the son of two ministers, I recognize the role faith and spirituality can play in helping to treat a person suffering from drug addiction. Make no mistake about it, drug addiction is an illness, and as an illness it requires medical and psychological attention.

Treating drug, alcohol addiction, and abuse is about treating a diseases, it is not about using federal funds to proselytize. It is about providing trained and licensed addiction counseling professionals to assess an individual's needs and method of treatment.

It is not about relaxing State licensing and certification standards for substance abuse counselors. It is about ensuring that our poorest and our least-served receive the best treatment available as they struggle to overcome a devastating disease.

In their time of need, they deserve and must demand accountability in the provision of drug treatment services. Drug addiction treatment demands quality resources and effective treatment. It should not be used as a testing ground for unproven methods of unlicensed professionals.

We must never lose sight of the fact that the federal funding of drug treatment services is a public service, one available to every person everywhere. As a result, public health services must never be placed in a position of competing for federal funds. In treating drug addiction, integrity, accountability, and responsibility must be a part of any treatment package.

According to the National Institute of Justice, 65 percent of inmates in New Jersey released from prison lack adequate access to resources needed in order to live productive lives after incarceration. In Maryland, of the annual 13,000 new commitments to prison, to the prison system, 60 percent are from Baltimore City. Unfortunately, many of these offenders return to the same neighborhoods, and because they do not have an alternative, often return back to the same life of drug use and petty crime.

A recent survey conducted by the Maryland Department of Corrections identified jobs, education, and housing as the top three concerns among returning ex-offenders. Seventy-five percent of Maryland's inmates have not had job training while in prison. Further, the majority of repeat offenders with a sentence of 18 months or less are not in long enough to receive needed skills and training.

Fortunately, community organizations and the Department of Corrections became involved in the Reentry Partnership Initiative. They recognized the increasing need for law enforcement and correction systems to work collaboratively and with community-based service providers to increase the likelihood that returning ex-offenders will stay out of prison, make a livable wage, and become contributing members of their communities.

In mid-September of 2000, Janet Reno traveled to my district to participate in a round table discussion of Baltimore's Reentry Partnership Initiative. At that time, she called on Congress to fully fund the administration's request of $145 million for the reentry initiative in the FY 2001 Commerce, Justice, State, and Judiciary appropriations bill.

That funding would assist State, city, and community partners in their efforts; provide an integrated reentry program to help prepare inmates for their transition from prisons to their communities; develop resources to efficiently manage program services that focus on an offender's needs; partner with private, nonprofit, and other governmental services to maximize the effectiveness of key service providers, and reduce recidivism; cooperatively develop a comprehensive plan that supports an offender's post-incarceration needs, including coping and decision-making skills, and effective use of a variety of community-based social and medical services. The program hopes to serve 250 ex-offenders during the first year.

In 1998, the White House Office of National Drug Control Policy launched an initiative to encourage our Nation's youth to stay drug-free. The campaign

targets youths age 9 to 18, particularly middle-aged schoolchildren, adolescents, parents, and other adults who influence the choices of young people.

To get the word out to a range of economic and ethnic groups, the campaign uses advertising, public relations, interactive media, television programs, and after-school activities to educate and empower young people to reject drugs.

The campaign also partners with civic and nonprofit organizations, faith-based groups, and private corporations to enlist and engage people in prevention efforts.

Nearly a year of research went into designing this comprehensive campaign. Hundreds of individuals and organizations were consulted, including experts in teen marketing, advertising, and communication, behavior change experts, drug prevention practitioners, and representatives from professional, civic, and community organizations.

This campaign raises the bar for public service campaigns because it has an unprecedented level of accountability. It has been constantly monitored, evaluated, and updated to ensure that it effectively reaches teens and their parents.

The Subcommittee on Criminal Justice, Drug Policy, and Human Resources of the Committee on Government Reform has held oversight hearings on this campaign. ONDCP has demonstrated that they continue to meet Congress's mandates while remaining cost-efficient and effective.

Last year, former ONDCP director General Barry McCaffrey joined me in Baltimore with a group of students to discuss the campaign and its effectiveness. General McCaffrey mentioned to me that a youth town hall meeting provided him with valuable information to take back to Washington to refine the campaign's message.

The students shared that some people in the ads that they could relate to greatly added to the effectiveness of the message. One ad featuring the singer, Lauren Hill, particularly stood out to them. Several surveys have been released in the past couple months that show that although we have a long way to go towards eliminating youth substance abuse, the media campaign is making strides towards this goal.

I hope that during the 107th Congress, Members will work hard to expand substance abuse and prevention programs so that our Nation's youth can live happy, productive, and drug-free lives.

I requested $2.5 million in the fiscal year 2002 Labor-HHS-Education bill for substance abuse and mental health services in the administration's Center for Abuse Treatment account to assist the city of Baltimore with its efforts to provide expanded drug treatment services.

The city of Baltimore suffers from an enormous drug abuse problem, so much so that the U.S. Drug Enforcement Administration called it the most addicted city in America.

According to Drug Strategies, a national nonprofit research organization that studies drug addiction and treatment programs, Baltimore is home to 60,000 drug addicts. Its six drug treatment facilities are currently running at 104 percent capacity, and several thousand addicts await treatment.

The city currently services 18,000 voluntary or court-ordered drug treatment patients, which is approximately 25 percent of the total number of people seeking treatment.

In fiscal year 2001, Congress provided $2.21 million to assist Baltimore in its effort to provide treatment on request, an innovative drug treatment regimen aimed at ensuring that drug treatment slots are available for every addict who seeks voluntary treatment, as well as those ordered into treatment by the courts.

In order to address the burgeoning drug epidemic in Baltimore, the city health department plans to utilize fiscal year 2001 resources to provide drug treatment services for 1,241 addicts. With an additional investment of $2.5 million in fiscal year 2002, the city would provide 75 additional immediate residential care beds.

Currently, Baltimore has the capacity to provide this 28-day regimen to only 75 people who request treatment. However, the city receives more than 100 calls each day requesting these services. Additional federal funding would enable Baltimore to double the capacity of its current intermediate residential treatment program, improve quality of life, and reduce the crime that is endemic among addicts.

I requested $250 million in the fiscal year 2002 Treasury-Postal appropriations bill for the National Youth Antidrug Media Campaign. The Office of National Drug Control Policy, in collaboration with the Partnership for a Drug-Free America, coordinates this effective public-private drug prevention media campaign.

The media campaign is an integral, cost-effective, and results-driven component of our national drug control policy, and it is working. Since the campaign was launched in 1998, more kids see risks in drugs. Fewer see benefits.

The critical shifts are fueling an unmistakable decline in drug use, as documented by two leading national tracking studies. Past-year use of marijuana has declined significantly. Congressional funding for the effort has stayed constant since 1998. However, the cost of placing these ads is up 23 percent.

To ensure anti-drug messages maintain their impact, to counter inflation, and to address the rise in new types of drug use, more funding is needed. According to a recent Baltimore Sun article, 45 percent of Americans believe it is a good idea to invest even more funding to protect future generations from the scourge of drug addiction and abuse.

Given the campaign's reach into society and its proven ability to leverage hundreds of millions of private industry dollars, it will surely continue to be one of the most cost-effective demand reduction programs ever funded by the Federal government. It is a wise investment for our country and for our children.

I also supported the $50.6 million funding level in the fiscal year 2002 Treasury-Postal appropriations bill's Drug-Free Communities Act. This effort was spearheaded by the gentleman from Ohio (Mr. PORTMAN). The level of funding is necessary to build and strengthen effective anti-drug coalitions, a central, bipartisan component of our Nation's drug demand reduction strategy.

It is crucial that communities around the country are organized to respond to their local drug problems in a comprehensive and coordinated manner. The DFCA recognizes that federal anti-drug resources must be invested at the community level with those who have the most power to reduce the demand for drugs: parents, teachers, business leaders, the media, religious leaders, law enforcement officials, youth, and others.

□ 1530

The bill makes Federal support contingent upon a community first demonstrating comprehensive commitment to addressing the drug problem, sustaining the effort over time with non-Federal financial support and evaluating the specific initiatives they undertake.

While other priorities will constrain the amount of funding available for discretionary programs, the DFCA warrants the administration-proposed increase. The community coalition approach has proven effective in reducing teenage drug use in communities around the country.

This additional funding will allow hundreds of additional communities to build and sustain effective coalitions that are the backbone of successful local antidrug efforts.

In conclusion, I submit to you that the data is overwhelming, and it is becoming increasingly difficult to help those facing addiction, particularly when we cannot secure desperately needed funding for a comprehensive drug treatment plan.

We know that drug treatment reduces stolen and damaged property, injuries and lost work time, police and court costs, hospital and emergency room visits, rates of infectious diseases and child abuse and foster care.

With appropriate funding, a comprehensive drug treatment plan could address the prevention treatment and after-care services our Nation needs.

After-care services in particular can save jobs, families and lives. Effective after-care includes child care services, vocational services, mental health services, medical services, educational and HIV services, legal and financial services, housing and transportation, and family services.

According to the National Institute on Drug Abuse, the best treatment programs provide a combination of therapies and other services that meet the needs of an individual patient.

Drug addiction is a disease that poses a serious national public health crisis. As such, it requires an adequate Federal response; and if we do not act now, a whole new generation of Americans will be disposed to the high social, economic, and health costs associated with addiction.

Ultimately, my goal is to make Baltimore a livable community through increased services to residents, reduction in crime and drug abuse, and increased citizen productivity.

Mr. Speaker, I include the following story from Time magazine for the RECORD as follows:

[From TIME Magazine, June 5, 2000]

THE LURE OF ECSTASY

The elixir best known for powering raves is an 80-year-old illegal drug. But it's showing up outside clubs too, and advocates claim it even has therapeutic benefits. Just how dangerous is it?

(By John Cloud)

Cobb County, GA., May 11, 2000. It's a Thursday morning, and 18-year-old ''Karen'' and five friends decide to go for it. They skip first period and sneak into the woods near their upscale high school. One of them takes out six rolls—six ecstasy pills—and they each swallow one. Then back to school, flying on a drug they once used only on weekends. Now they smile stupid gelatinous smiles at one another, even as high school passes them by. That night they will all go out and drop more ecstasy, rolling into the early hours of another school day. It's rare that anyone would take ecstasy so often—it's not physically addictive—but teenagers everywhere have begun experimenting with it. ''The cliques are pretty big in my school,'' Karen says, ''and every clique does it.

Grand Rapids, Mich., May 1997. Sue and Shane Stevens have sent the three kids away for the weekend. They have locked the doors and hidden the car so no one will bug them. Tonight they hope to talk about Shane's cancer, a topic they have mostly avoided for years. It has eaten away at their marriage just as it corrodes his kidney. A friend has recommended that they take ecstasy, except he calls it MDMA and says therapists used it 20 years ago to get people to discuss difficult topics. And, in fact, after tonight, Sue and Shane will open up, and Sue will come to believe MDMA is prolonging her marriage—and perhaps Shane's life.

So we know that ecstasy is versatile. Actually, that's one of the first things we knew about it. Alexander Shulgin, 74, the biochemist who in 1978 published the first scientific article about the drug's effect on humans, noticed this panacea quality back then. The drug ''could be all things to all people,'' he recalled later, a cure for one student's speech impediment and for one's bad LSD trip, and a way for Shulgin to have fun at cocktail parties without martinis.

The ready availability of ecstasy, from Cobb County to Grand Rapids, is a newer phenomenon. Ecstasy—or ''e''—enjoyed a brief spurt of mainstream use in the '80s, before the government outlawed it in 1985. Until recently, it remained common only on the margins of society—in clubland, in gay America, in lower Manhattan. But in the past year or so, ecstasy has returned to the heartland. Established drug dealers and mobsters have taken over the trade, and they are meeting the astonishing demand in places like Flagstaff, Ariz., where ''Katrina,'' a student at Northern Arizona University who first took it last summer, can now buy it easily; or San Marcos, Texas, a town of 39,000 where authorities found 500 pills last month; or Richmond, Va., where a police investigation led to the arrest this year of a man thought to have sold tens of thousands of hits of e. On May 12, authorities seized half a million pills at San Francisco's airport—the biggest e bust ever. Each pill costs pennies to make but sells for between $20 and $40, so someone missed a big payday.

Esctasy remains a niche drug. The number of people who use it once a month remains so small—less than 1% of the population—that ecstasy use doesn't register in the government's drug survey. (By comparison, 5% of Americans older than 12 say they use marijuana once a month, and 1.8% use cocaine.) But ecstasy use is growing. Eight percent of U.S. high school seniors say they have tried it at least once, up from 5.8% in 1997; teen use of most other drugs declined in the late '90s. Nationwide, customs officers have already seized more ecstasy this fiscal year, more than 5.4 million hits, than in all of last year. In 1998 they seized just 750,000 hits.

The drug's appeal has never been limited to ravers. Today it can be found for sale on Bourbon Street in New Orleans along with the 24-hour booze; a group of lawyers in Little Rock, Ark., takes it occasionally, as does a cheerleading captain at a Miami high school. The drug is also showing up in hip-hop circles. Bone Thugs-N-Harmony raps a paean to it on its lastest album: ''Oh, man, I don't even f___ with the weed no more.''

Indeed, much of the ecstasy taking—and the law enforcement under way to end it—has been accompanied by brealthlessness. ''It appears that the ecstasy problem with eclipse and crack-cocaine problem we experienced in the late 1980s,'' a cop told the Richmond Times-Dispatch. In April, 60 Minutes II prominently featured an Orlando, Fla., detective dolorously noting that ''ecstasy is no different from crack, heroin.'' On the other side of the spectrum, at *http://ecstasy.org*, you can find equally bloated praise of the drug. ''We sing, we laugh, we share/and most of all, we care,'' gushes an awful poem on the site, which also includes testimonials from folks who say ecstasy can treat schizophrenia and help you make ''contact with dead relatives.''

Ecstasy is popular because it appears to have few negative consequences. But ''these are not just benign, fun drugs,'' says Alan Leshner, director of the National Institute on Drug Abuse. ''They carry serious short-term and long-term dangers.'' Those like Leshner who fight the war on drugs overstate these dangers occasionally—and users usually understate them. But one reason ecstasy is so fascinating, and thus dangerous to antidrug crusaders, is that it appears to be a safer drug than heroin and cocaine, at least in the short run, and appears to have more potentially therapeutic benefits.

Even so, the Federal Government has launched a major p.r. effort to fight ecstasy based on the Internet at *http://clubdrugs.org*. Last week two Sentators, Bob Graham of Florida and Chrles Grassley of Iowa, introduced an ecstasy antiproliferation bill, which would stiffen penalties for trafficking in the drug. Under the new law, someone caught selling about 100 hits of ecstasy could be charged as a drug trafficker; current law sets the threshold at about 300,000 pills. ''I think this is the time to take a forceful set of initiatives to try to reverse the tide,'' says Graham.

What's the appeal of ecstasy? As a user put it, it's ''a six-hour orgasm.'' About half an hour after you swallow a hit of e, you begin to feel peaceful, empathetic and energetic—not edgy, just clear. Pot relaxes but sometimes confuses; LSD stupefies; cocaine wires. Ecstasy has none of those immediate downsides. ''Jack,'' 29, an Indiana native who has taken ecstasy about 40 times, said the only time he felt as good as he does on e was when he found out he had won a Rhodes scholarship. He enjoys feeling logorrheic: ecstasy users often talk endlessly, maybe about a silly song that's playing or maybe about a terrible burden on them. E allows the mind to wander, but not into hallucinations. Users retain control. Jack can allow his social defenses to crumble on ecstasy, and he finds he can get close to people from different backgrounds. ''People I would never have talked to, because I'm mostly in the Manhattan business world, I talk to on ecstasy. I've made some friends I never would have had.''

All this marveling should raise suspicions, however. It's probably not a good idea to try to duplicate the best moment of one's life 40 times, if only because it will cheapen the truly good times. And even as they help open the mind to new experiences, drugs also can distort the reality to which users ineluctably return. Is ecstasy snake oil? And how harmful is it?

This is what we know:

An ecstasy pill most probably won't kill you or cure you. It is also unlike pretty much every other illicit drug. Ecstasy pills are (or at least they are supposed to be) made of a compound called methylenediosymethamphetamine, or MDMA. It's an old drug: Germany issued the patent for it in 1914 to the German company E. Merck. Contrary to ecstasy lore, and there's tons of it, Merck wasn't trying to develop a diet drug when it synthesized MDMA. Instead, it's chemists simply thought it could be a promising intermediary substance that might be used to help develop more advanced therapeutic drugs. Thee's also no evidence that any living creature took it at the time—not Merck employees and certainly not Nazi soldiers, another common myth. (They wouldn't have made very aggressive killers.)

Yet MDMA all but disappeared until 1953. That's when the U.S. Army funded a secret University of Michigan animal study of eight drugs, including MDMA. The cold war was on, and for years its combatants had been researching scores of substances as potential weapons. The Michigan study found that none of the compounds under review was particularly toxic—which means there will be no war machines armed with ecstasy-filled bombs. It also means that although MDMA is more toxic than, say, the cactus-based psychedelic mescaline, it would take a big dose of e, something like 14 of today's purest pills ingested at once, to kill you.

It doesn't mean ecstasy is harmless. Broadly speaking, there are two dangers: first, a pill you assume to be MDMA could actually contain something else. Anecdotal evidence suggests that most serious short-term medical problems that arise from ''ecstasy'' are actually caused by pills adulterated with other, more harmful substances (more on this later). Second, and more controversially, MDMA itself might do harm.

There's a long-standing debate about MDMA's dangers, which will take much more research to resolve. The theory is that MDMA's perils spring from the same neurochemical reaction that causes its pleasures. After MDMA enters the bloodstream, it aims with laser-like precision at the brain cells that release serotonin, a chemical that is the body's primary regulator of mood. MDMA causes these cells to disgorge their contents and flood the brain with serotonin.

But forcibly catapulting serotonin levels could be risky. Of course, millions of Americans manipulate serotonin when they take Prozac. But ecstasy actually shoves serotonin from its storage sites, according to Dr. John Morgan, a professor of pharmacology at the City University of New York (CUNY). Prozac just prevents the serotonin that's already been naturally secreted from being taken back up into brain cells.

Normally, serotonin levels are exquisitely maintained, which is crucial because the chemical helps manage not only mood but also body temperature. In fact, overheating is MDMA's worst short-term danger. Flushing the system with serotonin, particularly when users take several pills over the course of one night, can short-circuit the body's ability to control its temperature. Dancing in close quarters doesn't help, and because some novice users don't know to drink water, e users' temperatures can climb as high as 110 [degrees]. At such extremes, the blood starts to coagulate. In the past two decades, dozens of users around the world have died this way.

There are long-term dangers too. By forcing serotonin out, MDMA resculpts the brain cells that release the chemical. The changes to these cells could be permanent. Johns Hopkins neurotoxicologist George Ricaurte has shown that serotonin levels are significantly lower in animals that have been given about the same amount of MDMA as you would find in just one ecstasy pill.

In November, Ricaurte recorded for the first time the effects of ecstasy on the human brain. He gave memory tests to people who said they had last used ecstasy two weeks before, and he compared their results with those of a control group of people who said they had never taken e. The ecstasy users fared worse on the tests. Computer images that give detailed snapshots of brain activity also showed that e users have fewer serotonin receptors in their brains than nonusers, even two weeks after their last exposure. On the strength of these studies as well as a large number of animal studies, Ricaurte has hypothesized that the damage is irreversible.

Ricaurte's work has received much attention, owing largely to the government's well-intentioned efforts to warn kids away from ecstasy. But his work isn't conclusive. The major problem is that his research subjects had used all kinds of drugs, not just ecstasy. (And there was no way to tell that the ecstasy they had taken was pure MDMA.) ANd critics say even if MDMA does cause the changes to the brain that Ricaurte has documented, those changes may carry no functional consequences. ''None of the subjects that Ricaurte studied had any evidence of brain or psychological dysfunction,'' says cuny's Morgan. ''His findings should not be dismissed, but they may simply mean that we have a whole lot of plasticity—that we can do without serotonin and be O.K. We have a lot of unanswered questions.''

Ricaurte told TIME that ''the vast majority of people who have experimented with MDMA appear normal, and there's no obvious indication that something is amiss.'' Ricaurte says we may discover in 10 or 20 years that those appearances are horribly wrong, but others are more sanguine about MDMA's risks, given its benefits. For more than 15 years, Rick Doblin, founder of the Multidisciplinary Association for Psychedelic Studies, has been the world's most enthusiastic proponent of therapeutic MDMA use. He believes that the compound has a special ability to help people make sense of themselves and the world, that taking MDMA can lead people to inner truths. Independently wealthy, he uses his organization to promote his views and to ''study ways to take drugs to open the unconscious.''

Doblin first tried MDMA in 1982, when it was still legal and when the phrase ''open the unconscious'' didn't sound quite so gooey. At that time, MDMA had a small following among avant-garde psychotherapists, who gave it to blindfolded patients in quiet offices and then asked them to discuss traumas. Many of the therapists had heard about MDMA from the published work of former Dow chemist Shulgin. According to Shulgin (who is often wrongly credited with discovering MDMA), another therapist to whom he gave the drug in turn named it Adam and introduced it to more than 4,000 people.

Among these patients were a few entrepreneurs, folks who thought MDMA felt too good to be confined to a doctor's office. One who was based in Texas (and who has kept his identity a secret) hired a chemist, opened an MDMA lab and promptly renamed the drug ecstasy, a more marketable term than Adam or ''empathy'' (his first choice, since it better describes the effects). He began selling it to fashionable bars and clubs in Dallas, where bartenders sold it along with cocktails; patrons charged the $20 pills, plus $1.33 tax, on their American Express cards.

Manufacturers at the time flaunted the legality of the drug, promotion it as lacking the hallucinatory effects of LSD and the addictive properties of coke and heroin. The U.S. Drug enforcement Administration was caught by surprise by the new drug not long after it had been embarrassed by the spread of crack. The administration quickly used new discretionary powers to outlaw MDMA, pointing to the private labs and club use as evidence of abuse. DEA officials also cited rudimentary studies showing that ecstacy users had vomited and experienced blood-pressure fluctuations.

Most therapeutic use quickly stopped. But Doblin's group has founded important MDMA studies, including Ricaurte's first work on the drug. Sue Stevens, the woman who took it in 1997 with her husband Shane—he has since died of kidney cancer—learned about the drug from a mutual friend of hers and Doblin's. She believes he helped Shane find the right attitude to fight his illness, and she helps Doblin advocate for limited legal use. Soon his association will help fund the first approved study of MDMA in psychotherapy, involving 30 victims of rape in Spain diagnosed with post-traumatic stress disorder. In this country, the FDA has approved only one study. In 1995 Dr. Charles Grob, a UCLA psychiatrist, used it as a pain reliever for end-stage cancer patients. In the first phase of the study, he concluded the drug is safe if used in controlled situations under careful monitoring. The body is much less likely to overheat in such a setting. Grob believes MDMA's changes to brain cells are accelerated and perhaps triggered entirely by overheating.

In 1998, emergency rooms participating in the Drug Abuse Warning Network reported receiving 1,135 mentions of ecstasy during admission, compared with just 626 in 1997. If ecstasy is so benign, what's happening to these people? The two most common short-term side effects of MDMA—both of which remain rare in the aggregate—are overheating and something even harder to quantify, psychological trauma.

A few users have mentally broken down on ecstasy, unprepared for its powerful psychological effects. A schoolteacher in the Bay Area who had taken ecstasy in the past and loved it says she took it again a year ago and began to recall, in horrible detail, an episode of sexual abuse. She became severely depressed for three months and had to seek psychiatric treatment. She will never take ecstasy again.

Ecstasy's aftermath can also include a depressive hangover, a down day that users sometimes call Terrible Tuesdays. ''You know the black mood is chemical, related to the serotonin,'' says ''Adrienne,'' 26, a fashion-company executive who has used ecstasy almost weekly for the past five years. ''But the world still seems bleak.'' Some users, especially kids trying to avoid the pressures of growing up, begin to use ecstasy too often—every day in rare cases. In one extreme case, ''Cara,'' an 18-year-old Miami woman who attends Narcotics Anonymous, says she lost 50 lbs. after constantly taking ecstasy. She began to steal and deal e to pay for rolls.

Another downside: because users feel empathetic, ecstasy can lower sexual inhibitions. Men generally cannot get erections when high on e, but they are often ferociously randy when its effects begin to fade. Dr. Robert Kiltzman, a psychiatrist at Columbia University, has found that men in New York City who use ecstasy are 2.8 time more likely to have unprotected sex.

Still, the majority of people who end up in the e.r. after taking ecstasy are almost certainly not taking MDMA but something masquerading under its name. No one knows for sure what they're taking, since emergency rooms don't always test blood to confirm the drug identified by users. But one group that does test e for purity is DanceSafe, a prorave organization based in Berkeley, Calif., and largely funded by a software millionaire, Bob Wallace (Microsoft's employee No. 9). DanceSafe sets up tables at raves, where users can get information about drugs and also have ecstasy pills tested. (The organization works with police so that ravers who produce pills for testing won't be arrested.) A DanceSafe worker shaves off a silver of the tablet and drops a solution onto it; if it doesn't turn black quickly, it's not MDMA.

The organization has found that as much as 20% of the so-called ecstasy sold at raves contains something other than MDMA. DanceSafe also tests pills for anonymous users who send in samples from around the nation; it has found that 40% of those pills are fake. Last fall, DanceSafe workers attended a ''massive''—more than 5,000 people—rave in Oakland, Calif. Nine people were taken from the rave in ambulances, but DanceSafe confirmed that eight of the nine had taken pills that weren't MDMA.

The most common adulterants in such pills are aspirin, caffeine and other over-the-counters. (Contrary to lore, fake e virtually never contains heroin, which is not cost-effective in oral form.) But the most insidious adulterant—what all eight of the Oakland ravers took—is DXM (dextromethorphan), a cheap cough suppressant that causes hallucinations in the 130-mg dose usually found in fake e (13 times the amount in a dose of Robitussin). Because DXM inhibits sweating, it easily causes heatstroke. Another dangerous adulterant is PMA (paramethoxyamphetamine), an illegal drug that in May killed two Chicago-area teenagers who took it thinking they were dropping e. PMA is a vastly more potent hallucinogenic and hyperthermic drug than MDMA.

Most users don't have access to DanceSafe, which operates in only eight cities. But as demand has grown, the incentive to manufacture fake e has also escalated, especially for one-time raves full of teens who won't see the dealer again. Established dealers, by contrast, operate under the opposite incentive. A Miami dealer who goes by the name ''Top Dog'' told TIME he obtains MDMA test kits from a connection on the police force. ''If [the pills] are no good,'' he says, customers ''won't want to buy from you anymore.'' It's business sense: Top Dog can earn $300,000 a year on e sales.

As writer Joshua Wolf Shenk has pointed out, we tend to have opposing views about

drugs: they can kill or cure; the addiction will enslave you, or the new perceptions will free you. Aldous Huxley typified this duality with his two most famous books, Brave New World—about a people in thrall to a drug called soma—and The Doors of Perception—an autobiographical work in which Huxley begins to see the world in a brilliant new light after taking mescaline.

Ecstasy can occasionally enslave and occasionally offer transcendence. Usually, it does neither. For Adrienne, the Midwestern woman who has been a frequent user for the past five years, ecstasy is a key part of life. ''E makes shirtless, disgusting men, a club with broken bathrooms, a deejay that plays crap and vomiting into a trash can the best night of your life,'' she says with a laugh. ''It has done two things in my life,'' she reflects. ''I had always been aloof or insecure or snobby, however you want to put it. And I took it and realized, you know what, we're all here; we're all dancing; we're not so different. I allowed myself to get closer to people. Everything was more positive. But my life also became, quickly, all about the next time I would do it * * * You feel at ease with yourself and right with the world, and that's a feeling you want to duplicate—every single week.''

THREAT OF THE PEOPLE'S REPUBLIC OF CHINA AND MASSIVE UNCONTROLLED IMMIGRATION

The SPEAKER pro tempore (Mr. ISSA). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, today being Flag Day, millions of Americans around the country are honoring the Nation through honoring the flag. Naturally, our thoughts turn to a number of subjects on a day like today.

I just returned from a particularly stirring presentation that was held over in the Cannon Caucus Building for veterans, at which time I was able to give a little bit of a presentation. It was a very powerful event, beautiful music, and a lot of great speeches about the country, about the Nation, about where we are as a Nation and about where we hope to go.

Mr. Speaker, this evening I want to talk about a couple of things that I believe to be the most significant threats this Nation faces; one is an external threat, and that threat is the People's Republic of China.

I characterize that nation as a threat, because of the actions taken by the Chinese, not just in the recent past, by the forcing down of one of our planes, but I suggest that China is a threat to the United States and can be identified as such as a result of analyzing China's history and its most recent actions together.

China is a nation with a very long history of aggressive behavior; that behavior is often activated by grievances, both actual grievances and perceived and contrived.

It is motivated by a sort of raging nationalism that finds expression in expanding its borders in xenophobia. I believe that the best way to successfully deal with China is to understand these realities and to fashion a foreign policy accordingly.

Later on, I will discuss what I believe to be the other most significant threat to the United States and that is internally. It is not a foreign threat, it is an internal threat, and that is massive uncontrolled immigration into this country, both legal and illegal.

I recognize that both of these subjects are quite controversial. Both of these subjects always engender a lot of emotion and a lot of discussion. The latter, the issue of immigration, does not get much attention on this floor, because there is a fear, a natural fear, on the part of a lot of people, a lot of my colleagues to address this, for fear that they will be characterized or mischaracterized, as the case may be, as a result of their opposition or concern about massive immigration into this Nation.

It is, nonetheless, the second topic I will deal with. First, I want to stay with the topic of the People's Republic of China.

Another important understanding for Americans with regard to China, something we must come to grips with is the fact that China believes itself to be our number one enemy. They look at us as their enemy. There is absolutely nothing we can do by way of appeasement that will ever change this reality.

Here in the United States, as in most democracies, there is a basic unwillingness to confront the harsh realities of nature. We want to attribute always the hostile actions of others to benign intent.

History, of course, has proven that this particular course of action is always dangerous and sometimes disastrous. From a historical perspective, China provides an unparalleled view of a nation in the constant grip of absolutism. Indeed, this tradition goes back to the very founding of the Chinese state by the Chang dynasty in 1766 B.C. The governmental structure at that time was sophisticated, and an autocrat ruled it. When addressing his subjects, he referred to himself as I, the single one man.

For literally thousands of years, the Chinese people have been treated as disposable resources of the state. The recent discovery of the famed Terra Cotta Warriors in China's ancient Capitol of Xian have survived far longer than the bones of the thousands of construction workers who were buried alive to hide the location of the tomb from grave robbers.

I find this to be a more interesting aspect of Chinese and a more revealing aspect of Chinese culture than the craftsmanship of the artists involved.

China's long history is an unbroken international internalization of the concept of externally expanding power as a guiding principle of foreign policy.

A China scholar by the name of Steven Moser states that this desire for hegemony is still deeply embedded in China's national dream work, intrinsic to its national identity and implicated in what it believes to be its natural destiny.

Mr. Moser divides China's quest for hegemony in three parts, basic hegemony, he says, the recovery of Taiwan, and the assertion of undisputed control over the South China Sea. Regional hegemony is the extension of the Chinese empire to maximum extent of its old, what they call their old Celestial Empire.

Finally, global hegemony, this is a worldwide contest with the United States to replace the current Pax Americana with a Pax Sinoca.

Certainly many observers disagree with Mr. Moser's characterization of modern day China. They would argue that time have changed and that new realities have forced a cultural and political metamorphosis in the PRC.

They go on to contend that the United States should fashion a foreign policy to accommodate this change. This, of course, is one of the arguments that was made during the recent debate here in this Congress over PNTR, or permanent normal trade relationships, with China.

The other very powerful argument that was made for PNTR, and about which I will say more later, when something like this, we do not really care about America's national security interests. There is money to be made by buying cheap in China and selling dear in the rest of the world. Well, let us test the theory of the modern day Chamberlains that rely on the accommodating rather than confronting China.

China, of course, is already acquired, through more peaceful mechanisms, Hong Kong and Macau; but they are now preparing for Taiwan to follow suit, peacefully or otherwise. China is aggressively assembling the military capabilities to protect its war power beyond its present internationally recognized borders.

Six days ago, China masked amphibious vehicles and landing craft on an island near Taiwan as part of a large-scale military exercise. These exercises are expected to be one of the largest shore-based war games held by the Chinese military in recent history.

China's capability to deliver the nuclear weapons to targets which include Los Angeles and many other cities in the United States has been perfected by the application of advanced technology that has been both purchased and stolen from the United States.

China has embarked upon the construction of three missile bases along the coast to threaten Taiwan. My colleagues may recall that they fired several missiles toward Taiwan just not too long ago.

Mr. Speaker, a little over 1 year ago, China exploded a neutron bomb; that event went relatively unpublicized in the Western press. Included in the plans for this basic hegemony of the region is the occupation of the Spratly and Paracel Island group. No fewer

than 11 naval bases have been constructed in this area in the very recent past.

By the way, these are very important sites strategically, as they control the sea lanes connecting the Strait of Malaca and the Taiwan Strait. From there you can easily strengthen the Philippines and Brunei and Thailand.

In recent history, China began its quest to regain the Celestial Empire, that was an area stretching from the Russian Far East to Lake Bakal and most of southern Asia, by sending troops into Tibet, Inner Mongolia and Manchuria.

They are using nonmilitary assets to project Chinese influence around the region by exporting human beings. There are now over 60 million Chinese expatriates in surrounding countries operating businesses that generate almost $700 billion a year, which is, by the way, almost equal to the entire Gross Domestic Product of the Communist Chinese.

Chinese now outnumbers Russians. Chinese now outnumber Russians in Siberia. In 1995, the Russian Defense Minister Pavel Grachev warned the Chinese were in the process of making a peaceful conquest of the Russian Far East. Russians are fearful of this mass immigration, but the Chinese love it.

The outflow relieves unemployment. It facilitates trade and, more importantly, it strengthens the historical claims to the land. By the way, all this sounds unfortunately very familiar to some of the things that are happening in our own country and, again, about which I will speak more in the future.

There is a significant increase in activity of a variety of sorts in Tajikistan and Kazakhstan and Mongolia and Korea.

Eventually, the Chinese believe they will be in direct confrontation with the United States. Their military and political leaders have stated this on several occasions. We, however, would rather whistle past the graveyard, which by the way may well be the one that we would all rest in if China had their way.

Now many people disagree. Again they will say that the era of monolithic communism is dead and the era of democratic capitalism has replaced it. Well, philosophical communism is indeed a rotting corpse, but totalitarian communism is alive and well in the PRC. In fact, throughout the world, political oppression can and does coexist quite comfortably with various iterations of capitalism.

□ 1545

One can make the case that political freedom cannot long exist without economic freedom; but the opposite case that economic freedom leads inevitably to political liberty is much weaker.

In fact, let us look closely at China over the last 20 years of economic reforms. Today, remember, after the last 20 years of economic reforms where democratic capitalism was supposed to have been making inroads in China, after 20 years of this, every major dissident in China has been jailed or they have been exiled.

According to the State Department nation report this year, thousands of unregistered religious institutions have been either closed or destroyed. Hundreds of Falun Gong have been imprisoned. Thousands more have been sentenced to, quote, reeducation camps or locked up in mental hospitals.

On April 23, the Chinese arrested a 79-year-old bishop and seven other Catholic clergymen in anticipation of problems arising out of the celebration of Easter. Two days ago, they arrested 35 Christians for worshipping outside their official church. They were sentenced to labor camps.

Speaking of labor camps, the number in China now stands around 1,100. These are places of human misery on a scale equivalent to anything seen in Nazi Germany or in the Soviet gulag. In fact, they have become an integral part of the Chinese economy through the sale of products made by slave labor. By the way, much of this can be found in almost every store in America. As we all know, China is the source the Pentagon went to to purchase the berets, the black berets that they were going to provide our military with.

A particularly lucrative industry has grown up around the harvesting and sale of human organs in China. Prisoners in these labor camps are categorized according to blood types and other pertinent information. When orders come in from around the world for certain body parts, the appropriate prisoners are slaughtered. Their organs are packed and sent off to the highest bidder.

In 1996, the Chinese Government admitted that 20,000 kidneys had been harvested from prisoners. By the way, in most cases, they took them two at a time.

All this is going on while American culture supposedly makes inroads into every part of the world and while the Internet provides a window to the world to all who can afford the hardware or get access to it. All this is going on subsequent to all the political strategies designed to bring China into the community of nations. It goes on after we pass PNTR. It will continue to go on until the United States and the rest of the world draw the proverbial line in the sand and make it clear that Chinese plans for basic regional and global hegemony are unattainable.

China may eventually be forced to accept the world as it is and accept that role as a peaceful participant in the March toward democratic capitalism. But it will not happen as a result of a policy of appeasement.

I worry, Mr. Speaker, about the fact that this Congress will be asked once again to approve normal trade relations with China because, although we passed over, certainly, my objection and that of many of our colleagues here, we did pass last year PNTR.

China has not, in fact, joined the WTO, the World Trade Organization. As a result of the fact that they have not yet joined the WTO, they have not achieved PNTR with the United States. So we will every year now until they are in the WTO, the President will still have to request normal trade relations with China. I fear that it will be extended to them.

Mr. Speaker, I will never forget what we went through here on this floor and in this body on the debate over that particular issue. I personally have never ever been lobbied more heavily, more pressure applied to try to get me to vote for normal trade relations with China.

Nothing that I ever dealt with here on the floor, not issues of abortion, not issues of gun-related laws, nothing matched the pressure that we faced from the corporate lobby in this Nation, the corporate lobby that puts profits above patriotism. That is the only way we can describe what they were doing here.

I will not call them American corporations because, Mr. Speaker, they had absolutely no allegiance to this country. They were much more concerned with that market they believed that existed in China. Really, what they wanted to do was import very cheap Chinese products and sell them in lucrative markets.

The idea that we were going to have a two-way trade was what they would constantly refer to. But, Mr. Speaker, that will never happen. First of all, there is no market there. Although there are certainly a billion and a half people, they cannot buy our products. They do not have the money, number one.

Number two, the Chinese Government will never allow massive trade with the United States. They only allow it going the other way, to the extent that we now sell to them only 2 percent of our exports, but we buy 40 percent of theirs.

Our trade imbalance with them last year was $86 billion. This is what we called trade. It is not trade. It is an imbalance that is detrimental to the United States and to American workers. Not only that, it is detrimental to the security of the United States, because when we make China stronger economically, we in fact provide them with the means to build the armaments to threaten us eventually. Taiwan today, the United States tomorrow. I believe this to be true, Mr. Speaker. I believe that China is our most significant and most serious threat externally.

Now, let me get to the internal threat to the Nation. Since 1970, more than 40 million foreign citizens and their descendents have been added to the local communities of the United States. Last month, the New York Times reported the Nation's population grew by more in the 1990s than in any other decade in United States history.

For the first time since the 19th century, the population of all 50 States increased, with 80 percent of the American counties experiencing growth.

Demographic change on such a massive scale inevitably has created winners and losers here in America. It is time, in fact way past time, that we asked ourselves what is the level of immigration that is best for America; in fact, what is even the level of immigration that can help the rest of the world.

It is difficult to discuss this, because everyone here, certainly on this floor, all of us, all of my colleagues, everybody that we know as friends and relatives who are immigrants to this Nation and relatively recent. My family came here in the late 1800s.

So it is not immigrants in and of themselves with which we find fault. Certainly I do not. I understand entirely the desire for all of these people to come to the United States. I do not blame them. If I were in their situation, I am sure I would be trying to do exactly the same thing.

But we must ask each other, Mr. Speaker, we must as those of us who have been elected and the Nation's future put in our hands for at least this period of time, we must ask ourselves if massive immigration on the scale that we have been witnessing it over the last couple of decades is in fact the best thing for America from this point on.

Mr. Speaker, in the heyday of immigration into this Nation, in the late 1800s, in the early 1900s when my grandparents came here, the height of immigration, we call that the Golden Era, in fact we never had more than a couple hundred thousand immigrants a year during that period of time.

This year, and for every year for the last decade or more, we have had at least 1 million immigrants a year over that period of time. We have had about another 250,000 a year who come here every year under refugee status.

Now, I am going to try to explain what has happened here by the use of this chart. As my colleagues can see, in 1970, the population of the United States was 203 million. By the year 2000, the population had gone up to 281 million.

How much of this population increase can be attributed to immigration, and how much can be attributed to what we would call the natural, the birth rate of the people here that we refer to as the baby boomers and the people who are indigenous to the United States prior to this time?

The green area of this chart indicates what the growth in this country would have been, what the population of this Nation would have been in the year 2000, the 2000 census, had it not been for immigration. As my colleagues can see, it would have been about 243 million people. It is actually 281 million people.

By the way, this is a very low count because it does not really capture the number of especially illegal immigrants who are here in the country, and there are millions and millions of them.

But one can see, Mr. Speaker, what I am talking about here, in that we have had almost the exact same growth rate from the baby boomer generation, we call the baby boom echo, because we are having an increased birth rate in the United States, and it will continue to increase until about the year 2020. It then levels off, and it actually starts downward. That is what we would call the natural birth rate here in the United States taking out immigration.

But the fact is that immigrants and their descendants amount to almost exactly as much growth in the last 10 years as the entire baby boom echo, bringing this up to 281 million.

Mr. Speaker, there was a time when this land could absorb this kind of population growth. But I suggest to my colleagues that every single day on the floor of this House, when Members of the Democratic Party get up and talk about their problems, the problems in California especially, the problems with energy consumption in the United States generally, they always blame it on the producers, the price gouging electric producers, power producers.

Even we, Mr. Speaker, on the other side trying to explain supply and demand to those people who have a desire to not listen miss the important point that this particular thing plays in the debate over natural resources in the United States.

Mr. Speaker, I suggest to my colleagues that what we are seeing in California today we are going to see happen throughout the United States as a result of massive population increases, increases in population that force a demand on resources. It is a natural function.

We are actually in many States below where we were several years ago in per capita use of resources, per capita use of energy resources specifically. We have been able to conserve enough. We have been able to improve products. We have been able to do a number of things that actually have reduced per capita usage.

But it does not matter when the number of people in this country keeps climbing so dramatically. I want to tell my colleagues how dramatic it is going to be with this other chart here.

I just returned recently, I had an opportunity to speak in Los Angeles. As most people know, Los Angeles is a city that is inundated with immigration. The numbers of people are growing dramatically. I have to tell my colleagues that, for the most part, it has affected the quality of life in that city.

A lot of people I talk to actually use the phrase we have escaped from Los Angeles. They had moved to all the areas in the suburbs outside. Many, many more people I know living in my own community in my district came from California, and they came because they said it is a quality of life issue.

It is absolutely true that the quality of life has been eroding both in Los Angeles and other areas where massive numbers of people are congregated. We find that as a result, of course, tremendous demands are placed on resources.

We recognize that what was just yesterday a beautiful pasture is today sprouting houses. We recognize that where we took a walk with our dog and with our family maybe just a few months ago is now some sort of industrial park development. A road is coming through in an area that was a pleasant pasture land a short time ago.

In Colorado, we are forced with enormous expenditures for infrastructural development all to meet what, population growth. Population growth. A lot of people think to themselves, well, gosh, is it the case that we are having such an enormous growth of population just internally in this country? Because I know most people are quite concerned. I mean, the two-child family, a lot of people recognize that that is what is, maybe, the optimum number, and they try very much to achieve just that goal.

Well, it is not that birth rate that we are concerned about. It is not the natural birth rate in the country that will propel us into this dire strait that is the expansion of the Los Angeles all over the United States of America.

Nothing against the people who live there in Los Angeles. Many people I am sure love it. But I will tell my colleagues that it is a megalopolis by anybody's definition, and it faces some of the most difficult situations of any city in the United States as a result of that.

That is what I am referring to when I talk about the fact that we are expanding. That is exactly what cities are going to be looking like all over the United States in a relatively short time because this chart shows what is going to happen.

□ 1600

This is the dramatic evidence of population and what will happen if we continue to have immigration at this particular level. This does not presume to define what will happen to the population because of legal immigration. Remember, this is just what is going to happen by the year 2100 to the population of the United States of America if we allow immigration to continue at the numbers that we have today.

Again, I have to reiterate, it does not count the fact that we are doubling our immigration rate every year with illegal immigrants. About 1 million illegals come in every year. About 2 to 3 million we gain. Nobody is really sure, of course, we cannot really count them all that easily, but the best prediction we have of this is that 2 to 3 million a year are net gains. So, in fact, this doubles. This doubles if present trends continue, 571 million at 2100.

Then where will our cities be? Then how much will gas prices be? How difficult will it be for us to deliver natural gas from one place to another?

How much will it cost to do that? What will the smog be like in these cities? What will be the quality of life for Americans in the year 2100 if we allow immigration to continue at this level?

Mr. Speaker, I suggest that it is nothing any of us here would like to think of. We cannot describe it as a pleasant place to be under these circumstances. That is why I characterize this as a threat, almost equal with the threat posed to the United States externally by aggressor nations.

This is happening, and we are doing it. We have the ability to control this, Mr. Speaker. This is something we can handle because in fact we have the power in this body to control immigration, at least to try to bring it under control. Certainly there will always be people coming across our borders illegally, but we have to at least try to preserve the integrity of the border. We must at least try to reduce immigration.

Can we handle 50,000 a year? Yes. Can we handle 100,000 a year? Yes. Can we handle 150,000 a year? Okay. Give me 200,000 a year, but not a million a year legally and twice that many illegally. We cannot handle it. It is the numbers. It is not where they come from. I do not care where they are coming from, whether it is Mexico or Guatemala or China or Cuba or Haiti. I do not care. The place of origin is not important; it is the numbers. It is the numbers. This is not a racial issue. It is the numbers.

I am somewhat discouraged because it is so difficult to get this subject dealt with openly, even, as I say, here in this body. People are afraid to discuss it. People choose to avoid it. As I was walking over here with the staff person carrying these charts, we were walking through the tunnel area coming over and an another Member of the House walked by and he said, oh, you are going to do a Special Order? I said, yes. He said, what about? I said, immigration. I am trying to talk about immigration control. He said, oh, brother, good luck. He said good luck because he knows that this is not a popular subject. It is very difficult to get my colleagues to really want to focus on it, but I think it is an enormously important thing for us to do.

We control immigration. No State does. No State has the ability to establish numbers for the people coming in. They cannot control their own borders. That is uniquely the territory of the United States, the Federal Government. It is our responsibility. It is a responsibility, Mr. Speaker, that I think we have abdicated. We have done so for a lot of reasons. We have abdicated this responsibility, to a certain extent, and have allowed this massive immigration because there are political implications to this. And, yes, I will say it, political parties and specific individuals within political parties want to manipulate and use immigration as a political tool.

We all recall that in the last administration, the President, then-President Clinton, forced the INS to go through this hurry-up process to bring all these people in and give them citizenship. Well, why, I wonder? Why did he force them to ratchet up the time frame involved, shorten the time frame involved and ratchet up their energy to get all these people registered, get them all in here in the United States, get them to be citizens, get them registered? Because, of course, they turn into Democrat votes. Let us be serious about this. We all recognize the politics of this issue.

I know it is another one of those things nobody likes to say, but it is the truth. And as a result of the fact that these populations are, and I will say it, manipulated, and I believe they are manipulated by political parties and by politicians, we are going to find it difficult to actually bring the numbers down.

Now, that is one thing that has done it. The other thing, of course, has been business. Businesses in the United States are very, very content to continue to hire people, immigrants coming in here legally and illegally. Why? Because they will work for less. It is not nuclear science here we are talking about. If I can hire somebody for a lot less than I would have to pay someone who is a citizen of the United States, I am tempted to do it. They are not supposed to. There are supposed to be laws against it. But everyone knows that they are regularly ignored. We all know the INS does absolutely nothing to actually enforce those laws. Once in a while, a little tiny feint here or there, a raid here or there to pretend they care. But in reality this is not an area where INS pays any attention.

I hear this from my community and from people all the time, from employers who say, TANCREDO, I wish you would get off this thing, this immigration issue. I hire a lot of people who I know are here illegally, but I have to do it anyway. They will admit it. And certainly they will admit to hiring illegal immigrants because they can pay them less. Well, is that in the immigrant's best interest?

I mentioned earlier there are two interests here: What can America do for our own people, and what can we do for the rest of the world? Mr. Speaker, I suggest that people coming here and working for low wages are continually exploited. They are exploited by business. They are even exploited by the labor unions. And they are exploited by the people who bring them here, the ''coyotes'' they are called, people who pack them into vans and on the back of trucks, or packed in with other kinds of products in order to get them across the border, sometimes dead. We have had, in the last months in Colorado, several cases where people were found dead. Perhaps their car was in an accident. A van was in an accident not too long ago, and 13 people were killed in the van, and several others hurt, in a small van. They were all smashed in there.

They are coming across the borders in greater numbers. They are risking life and limb to get here. And I do not blame them for doing it. I do not blame the immigrants. I blame our government for not being willing to deal with this issue. It is extremely difficult for us to bring issues like this forward, but I will continue to do it as long as I have the opportunity to do so.

There is a June 11 special issue of ''Time'' magazine entitled ''The Border is Vanishing.'' It says: ''The Border is Vanishing Before Our Eyes Creating a New World for All of Us. Welcome to Amexico,'' their world is called. A world, of course, in which English is not spoken, a world in which the numbers, the population numbers, are affecting the quality of life in the way I have described and is described in this ''Time'' magazine article.

This is something with which we must deal, even if it is difficult to think about it. We have to do so. It is our responsibility as people who have taken an oath to defend this Nation against all enemies, external and internal. And I am not saying that immigrants are internal enemies. I am saying that immigration is a threat, huge massive immigration on the scale with which we have now observed it lo these many years is a threat to this Nation. And this is the best example I can provide to prove that.

This is where we will be, Mr. Speaker. This is not a place I think most of us would find appropriate or most of us would want our children to be living in. We want to bequeath them something else, both the children of people who have been here for a long time and I believe the children of recent immigrants.

I think many recent immigrants, Mr. Speaker, as a matter of fact, agree with us on this issue, agree with us that a cap has got to be put on it. It is the old thing about, I'm here, now you can shut the door. But they recognize the impact that massive immigration, legal and illegal, has. It is not just people who have been here for a long period of time.

So I do really hope that we will take serious account of these two issues, the issue of the threats posed to the United States, again externally by the People's Republic of China, and internally by massive uncontrolled immigration of this nature.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 324

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 324. It was inadvertently added without my permission.

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

There was no objection.

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. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. ROEMER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

(The following Members (at the request of Mr. ENGLISH) to revise and extend their remarks and include extraneous material:)

Mr. HULSHOF, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today and June 19.

Mr. PENCE, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was given to:

Mr. POMBO 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 $3,380.

ADJOURNMENT

Mr. DEAL of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 11 minutes p.m.), under its previous order, the House adjourned until Monday, June 18, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2494. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Karnal Bunt; Regulated Areas [Docket No. 01–058–1] received June 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2495. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Importation of Mangoes from the Philippines [Docket No. 93–131–2] received June 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2496. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—PRIME Act Grants (RIN: 3245–AE52) received June 11, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2497. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Temple, Texas) [MM Docket No. 01–46; RM–10046] received June 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2498. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Salinas, California) [MM Docket No. 99–269; RM–9698] received June 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2499. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Little Rock, Arkansas) [MM Docket No. 01–50; RM–10059] received June 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2500. A letter from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Merced, California) [MM Docket No. 01–41; RM–10058] received June 12, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2501. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed transfer of U.S.-origin defense articles pursuant to Section 3 of the Arms Export Control Act (AECA); to the Committee on International Relations.

2502. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–69, ''Advisory Neighborhood Commission Temporary Amendment Act of 2001'' received June 14, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2503. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–71, ''Real Property Tax Assessment Transition Temporary Act of 2001'' received June 14, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2504. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–70, ''Earned Income Tax Credit Act of 2001'' received June 14, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2505. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–72, ''Department of Mental Health Establishment Temporary Amendment Act of 2001'' received June 14, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2506. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–67, ''Arena Fee Rate Adjustment and Elimination Act of 2001'' received June 14, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2507. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–74, ''51 Percent District Residents New Hires Amendment Act of 2001'' received June 14, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2508. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in April 2001, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

2509. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in March 2001, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

2510. A letter from the Chair, Corporation for Public Broadcasting, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2511. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–68, ''Child Fatality Review Committee Establishment Temporary Act of 2001'' received June 14, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2512. A letter from the Assistant Attorney General, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2513. A letter from the Acting Director, Office of Personnel Management, transmitting the semiannual report on activities of the Inspector General for the period of October 1, 2000, through March 31, 2001, and the Management Response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2514. A letter from the Acting Commissioner, Social Security Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2515. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Regulations Designed to Reduce the Mid-Continent Light Goose Population (RIN: 1018–AI00) received June 11, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2516. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Establishment of Nonessential Experimental Population Status for 16 Freshwater Mussels and 1 Freshwater Snail (Anthony's Riversnail) in the Free-flowing Reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, Alabama (RIN: 1018–AE92) received June 11, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2517. A letter from the Acting Assistant Secretary, Bureau of Land Management, Department of the Interior, transmitting the Department's ''Major'' final rule—Mining Claims Under the General Mining Laws; Surface Management [WO–320–1990–PB–24 1A] (RIN: 1004–AD22) received June 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2518. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Immigrants and Nonimmigrants Under The Immigration and Nationality Act, As Amended—Refusal of Individual Visas—received June 11, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2519. A letter from the the Adjutant General, the Veterans of Foreign Wars of the U.S., transmitting proceedings of the 101th

National Convention of the Veterans of Foreign Wars of the United States, held in Milwaukee, Wisconsin, August 20–25, 2000, pursuant to 36 U.S.C. 118 and 44 U.S.C. 1332; (H. Doc. No. 107–88); to the Committee on Veterans' Affairs and ordered to be printed.

2520. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 2001–36] received June 11, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2521. A letter from the Deputy Secretary, Department of Defense, transmitting a Report on Proposed Obligations for Weapons Destruction and Non-Proliferation in the Former Soviet Union; jointly to the Committees on Armed Services and International Relations.

2522. A letter from the Director, Defense Security Cooperation Agency, transmitting a report authorizing the transfer of up to $100M in defense articles and services to the Government of Bosnia-Herzegovina, pursuant to Public Law 104–107, section 540(c) (110 Stat. 736); jointly to the Committees on International Relations and Appropriations.

2523. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Provisions of the Benefits Improvement and Protection Act of 2000; Inpatient Payments and Rates and Costs of Graduate Medical Education [HCFA–1178–IFC] (RIN: 0938–AK74) received June 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 169. A bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes; with an amendment (Rept. 107–101 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CANNON:

H.R. 2171. A bill to require that the Bureau of the Census prepare and submit to Congress a detailed plan for counting overseas Americans in future decennial censuses, and for other purposes; to the Committee on Government Reform.

By Mr. GREENWOOD (for himself, Mr. WOLF, Mr. OWENS, Mr. NEAL of Massachusetts, Mr. PALLONE, Mrs. MCCARTHY of New York, Mr. DEUTSCH, Mr. GILLMOR, and Ms. DEGETTE):

H.R. 2172. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the cloning of humans, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCGOVERN (for himself, Mr. SIMPSON, Mr. RUSH, Mr. SHIMKUS, Mr. ROSS, Mr. WHITFIELD, Mr. PICKERING, Mr. SHOWS, Ms. MCKINNEY, and Mr. LANGEVIN):

H.R. 2173. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; to the Committee on Energy and Commerce.

By Mr. CALVERT (for himself, Ms. WOOLSEY, Mr. BOEHLERT, Mr. SMITH of Michigan, Mr. BARTLETT of Maryland, Mr. EHLERS, Mr. LARSON of Connecticut, Mr. PETERSON of Minnesota, Mrs. MORELLA, Mrs. BIGGERT, Mr. BACA, Ms. RIVERS, Mr. HALL of Texas, and Mr. GARY G. MILLER of California):

H.R. 2174. A bill to reauthorize and amend the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, and for other purposes; to the Committee on Science.

By Mr. CHABOT (for himself, Mrs. MYRICK, Ms. HART, Mr. SMITH of New Jersey, Mr. WELLER, Mr. GREEN of Wisconsin, Mr. SHOWS, Mr. WOLF, Mr. PICKERING, Mr. BAKER, Mr. PHELPS, Mr. MICA, Mr. ISTOOK, Mr. WELDON of Florida, Mr. TIBERI, Mr. DOOLITTLE, Mr. DEMINT, Mr. HANSEN, Mr. WAMP, Mr. LARGENT, Mr. ENGLISH, Mr. RILEY, Mr. BURTON of Indiana, Mr. BARTLETT of Maryland, Mr. PAUL, Mr. BACHUS, Mr. VITTER, Mr. CANTOR, Mr. ADERHOLT, Mr. TERRY, Mr. HAYES, Mr. LEWIS of Kentucky, Mr. OXLEY, Mr. COLLINS, Mr. KELLER, Mr. OBERSTAR, Mr. SOUDER, Mr. POMBO, Mr. CAMP, Mr. HOSTETTLER, Mr. GOODLATTE, Mr. LIPINSKI, Mr. HILLEARY, Mr. STEARNS, Mr. THUNE, Mr. BLUNT, Mr. LUCAS of Kentucky, Mr. PITTS, Mr. HYDE, Mr. SESSIONS, Mr. CRANE, Mr. DEAL of Georgia, Mr. LANGEVIN, Mr. PENCE, Mr. TAYLOR of Mississippi, Mr. ARMEY, Mr. HALL of Texas, Mr. NORWOOD, Mr. WICKER, Mr. AKIN, Mr. BRADY of Texas, Mr. GARY G. MILLER of California, Mr. BARCIA, Mr. DELAY, Mrs. JO ANN DAVIS of Virginia, Mr. PORTMAN, Mr. EVERETT, Mr. GRAVES, Mr. CANNON, Mr. TIAHRT, Mr. RYAN of Wisconsin, Mr. NEY, Mr. ROGERS of Michigan, Mrs. EMERSON, and Mr. KING):

H.R. 2175. A bill to protect infants who are born alive; to the Committee on the Judiciary.

By Mr. BAIRD (for himself and Mr. ANDREWS):

H.R. 2176. A bill to amend the Internal Revenue Code of 1986 to provide disaster relief for homeowners; to the Committee on Ways and Means.

By Mr. CALVERT (for himself, Mr. ORTIZ, Mr. LUCAS of Oklahoma, Mr. FOLEY, Mr. BARTLETT of Maryland, Mr. BACA, Mr. MCKEON, Mr. LEWIS of California, Mr. SENSENBRENNER, Mr. SKEEN, Mr. WELDON of Florida, Mr. REHBERG, Mr. SANDLIN, Mr. REYES, and Mrs. CAPPS):

H.R. 2177. A bill to amend the Internal Revenue Code of 1986 to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes; to the Committee on Ways and Means.

By Mr. CARDIN (for himself, Mr. STARK, Mr. KLECZKA, Mr. LEVIN, Mrs. THURMAN, Mr. COYNE, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. BENTSEN, Ms. HOOLEY of Oregon, Mr. JEFFERSON, and Mr. WAXMAN):

H.R. 2178. A bill to amend the Internal Revenue Code of 1986 and title XVIII of the Social Security Act to provide for comprehensive financing for graduate medical education; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California:

H.R. 2179. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for expenditures for renewable energy property; to the Committee on Ways and Means.

By Mr. TOM DAVIS of Virginia (for himself, Mr. GILLMOR, Mr. GREEN of Wisconsin, Mr. SWEENEY, Ms. GRANGER, Mr. TOWNS, Mr. LINDER, Mr. FERGUSON, Mr. COLLINS, Mr. SCHROCK, Mrs. BONO, Mr. PETERSON of Minnesota, Mr. GRUCCI, Mr. TERRY, and Mr. DOYLE):

H.R. 2180. A bill to amend the Federal Food, Drug, and Cosmetic Act to grant the Secretary of Health and Human Services the authority to regulate tobacco products, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DEFAZIO (for himself, Mr. NORWOOD, Ms. HOOLEY of Oregon, Mr. SHOWS, Mr. BOYD, Mr. TAYLOR of Mississippi, Mr. BAIRD, Mr. GRAHAM, Mr. ROSS, Mr. PICKERING, Mr. MCNULTY, Mr. LEWIS of Georgia, Mr. CALLAHAN, Mr. THOMPSON of Mississippi, Ms. KAPTUR, Ms. MCCOLLUM, Mr. KUCINICH, and Ms. DEGETTE):

H.R. 2181. A bill to impose certain restrictions on imports of softwood lumber products of Canada; to the Committee on Ways and Means.

By Mr. DOYLE (for himself, Mr. EVANS, Mr. WYNN, Mr. BALDACCI, and Mr. COYNE):

H.R. 2182. A bill to amend title 38, United States Code, to revise the computation of retirement annuities for part-time employment by persons employed by the Department of Veterans Affairs under that title; to the Committee on Veterans' Affairs.

By Mr. ENGEL:

H.R. 2183. A bill to amend the Safe Drinking Water Act to allow public water systems to avoid filtration requirements, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ENGEL (for himself, Mr. TERRY, Ms. KILPATRICK, Mr. SANDERS, and Ms. MCKINNEY):

H.R. 2184. A bill to amend the Internal Revenue Code of 1986 to expand the energy credit to include investment in property which produces energy from certain renewable sources and expenditures for cool roofing, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE (for himself, Mr. HALL of Ohio, Ms. HART, Mr. COOKSEY, and Mrs. EMERSON):

H.R. 2185. A bill to amend the Food Stamp Act of 1977 to require the Secretary of Agriculture to purchase additional commodities for distribution, and for other purposes; to the Committee on Agriculture.

By Mr. GOODLATTE:

H.R. 2186. A bill to amend the Soil Conservation and Domestic Allotment Act to ensure that States and local governments can quickly and safely remove flood debris so as to reduce the risk and severity of subsequent flooding; to the Committee on Agriculture.

By Mr. HEFLEY (for himself, Mr. UDALL of Colorado, and Mr. MCINNIS):

H.R. 2187. A bill to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves; to the Committee on Resources, and

in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER:

H.R. 2188. A bill to amend the Older Americans Act of 1965 to permit States to allow the issuance of vouchers to older individuals to obtain nutrition services provided under such Act; to the Committee on Education and the Workforce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. JEFFERSON, Mr. MCCRERY, Mr. SPENCE, Mr. HUNTER, Mr. WELDON of Pennsylvania, Mr. TAYLOR of Mississippi, Mr. SAXTON, Mr. SIMMONS, Mr. MALONEY of Connecticut, Mrs. JO ANN DAVIS of Virginia, Mr. SCHROCK, Mr. CUNNINGHAM, Mr. WICKER, Mr. VITTER, Mr. COOKSEY, Mr. CANTOR, Mr. SCOTT, Mr. PICKERING, and Mr. SHOWS):

H.R. 2189. A bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts; to the Committee on Ways and Means.

By Ms. MCCARTHY of Missouri (for herself, Mr. LARSEN of Washington, and Mr. BLUNT):

H.R. 2190. A bill to reauthorize and revise the Renewable Energy Production Incentive program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCCRERY:

H.R. 2191. A bill to suspend temporarily the duty on 2-methyl imidazole; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2192. A bill to reduce temporarily the duty on hydroxylamine free base; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2193. A bill to suspend temporarily the duty on prenol; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2194. A bill to suspend temporarily the duty on 1-methyl imadazole; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2195. A bill to suspend temporarily the duty on formamide; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2196. A bill to suspend temporarily the duty on Michler's ethyl ketone; to the Committee on Ways and Means.

By Mr. MCCRERY:

H.R. 2197. A bill to suspend temporarily the duty on vinyl imidazole; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Ms. KAPTUR, Mr. STRICKLAND, Mr. OLVER, Mr. STARK, Ms. JACKSON-LEE of Texas, Mr. BALDACCI, Mr. DEFAZIO, Mr. MCGOVERN, Ms. ESHOO, Mrs. CHRISTENSEN, Ms. MILLENDER-MCDONALD, Mr. FARR of California, Mr. SANDLIN, Ms. WOOLSEY, Mrs. MALONEY of New York, Mr. BROWN of Ohio, Mr. HILLIARD, Mr. WAXMAN, Mr. PAYNE, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. BONIOR, Ms. MCKINNEY, Mr. LANTOS, Mr. MCDERMOTT, Mr. RANGEL, Mr. FRANK, Ms. RIVERS, Ms. SCHAKOWSKY, Ms. SOLIS, and Ms. CARSON of Indiana):

H.R. 2198. A bill to meet the mental health and substance abuse treatment needs of incarcerated children and youth; to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. NORTON:

H.R. 2199. A bill to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes; to the Committee on Government Reform.

By Mr. NUSSLE:

H.R. 2200. A bill to amend the Internal Revenue Code of 1986 to permit financial institutions to determine their interest expense deduction without regard to tax-exempt bonds issued to provide certain small loans for health care or educational purposes; to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota:

H.R. 2201. A bill to amend title 38, United States Code, Section 1114 to increase the compensation for disabled veterans who require aid and attendance; to the Committee on Veterans' Affairs.

By Mr. REHBERG:

H.R. 2202. A bill to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts; to the Committee on Resources.

By Mr. REYES (for himself and Mr. THORNBERRY):

H.R. 2203. A bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes; to the Committee on Armed Services.

By Mr. RUSH:

H.R. 2204. A bill to establish a Consumer Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers; to the Committee on Energy and Commerce.

By Mr. SIMMONS:

H.R. 2205. A bill to amend title 49, United States Code, to promote the cooperation of Amtrak with local governments in the implementation of activities to enhance railroad property and structures; to the Committee on Transportation and Infrastructure.

By Mr. TERRY (for himself, Mr. BRADY of Texas, Mr. MANZULLO, Mr. BILIRAKIS, Mr. BARTON of Texas, Mr. SHIMKUS, Mr. GRAVES, Mr. ISAKSON, Ms. KILPATRICK, Mr. SANDERS, Ms. MCKINNEY, and Mr. WU):

H.R. 2206. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy efficient property placed in service or installed in an existing principal residence or property used by businesses; to the Committee on Ways and Means.

By Mrs. THURMAN:

H.R. 2207. A bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for water and sewage facilities; to the Committee on Ways and Means.

By Mr. WATT of North Carolina (for himself, Ms. WATERS, and Mr. FRANK):

H.R. 2208. A bill to amend the Real Estate Settlement Procedures Act of 1974 to require the payment of interest on escrow and impoundment accounts established for the payment of taxes and fire and hazard insurance premiums on property securing a federally related mortgage loan; to the Committee on Financial Services.

By Mr. ISAKSON:

H. Con. Res. 161. Concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996; to the Committee on Armed Services.

By Mr. KNOLLENBERG (for himself, Mr. CROWLEY, Mr. PALLONE, and Mr. SWEENEY):

H. Con. Res. 162. Concurrent resolution expressing the sense of the Congress regarding oil and gas pipeline routes in the South Caucasus; to the Committee on International Relations.

By Mr. WATTS of Oklahoma (for himself and Mr. DAVIS of Illinois):

H. Con. Res. 163. Concurrent resolution recognizing the historical significance of Juneteenth Independence Day and expressing the sense of Congress that history be regarded as a means of understanding the past and solving the challenges of the future; to the Committee on Government Reform.

By Ms. JACKSON-LEE of Texas (for herself, Mr. EDWARDS, Mr. ORTIZ, Mr. RODRIGUEZ, Mr. REYES, Mr. EVANS, Mr. GREEN of Texas, Mr. TURNER, Mr. BENTSEN, Mr. DELAY, Mr. CULBERSON, Mr. BARTON of Texas, Mr. BRADY of Texas, Mr. SAM JOHNSON of Texas, Mr. SANDLIN, Mr. LAMPSON, Mr. FROST, and Ms. EDDIE BERNICE JOHNSON of Texas):

H. Res. 166. A resolution recognizing the outstanding and invaluable disaster relief assistance provided by individuals, organizations, businesses, and other entities to the people of Houston, Texas, and surrounding areas during the devastating flooding caused by tropical storm Allison; to the Committee on Transportation and Infrastructure.

By Ms. CARSON of Indiana (for herself, Mr. BISHOP, Mrs. CHRISTENSEN, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. HASTINGS of Washington, Mr. HILLIARD, Mr. JACKSON of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia, Ms. MILLENDER-MCDONALD, Ms. MCKINNEY, Mr. MEEKS of New York, Ms. NORTON, Mr. OWENS, Mr. PAYNE, Mr. SCOTT, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATSON, Mr. WATT of North Carolina, and Mr. WYNN):

H. Res. 167. A resolution encouraging and promoting greater involvement of fathers in their children's lives, especially on Father's Day; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

109. The SPEAKER presented a memorial of the General Assembly of the State of Missouri, relative to a Resolution memorialing the United States Congress to and the Department of Agriculture to grant a wavier for Agramarke Quality Grains, Inc. for development in St. Joseph, Missouri, to allow Agramarke to qualify for rural development economic incentive programs; to the Committee on Agriculture.

110. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 64 memorializing

the United States Congress to increase federal aid to Louisiana farmers; to the Committee on Agriculture.

111. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 32 memorializing the United States Congress to use the powers at its disposal to commission the Department of Energy to establish a national energy policy, which should pursue a long-term remedy to problems by providing incentives for immediate domestic natural gas exploration and production, including opening untapped natural gas reserves; to the Committee on Energy and Commerce.

112. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the United States Congress to make federal rules and regulations to allow the development of Medicare supplement insurance policies offering greater prescription drug coverage than is currently available; jointly to the Committees on Ways and Means and Energy and Commerce.

113. Also, a memorial of the General Assembly of the State of Missouri, relative to Senate Concurrent Resolution No. 28 memorializing the United States Congress to actively address the issue of fuel prices and take immediate actions necessary to reduce our nation's dependency on foreign petroleum sources; jointly to the Committees on Energy and Commerce, Resources, and Science.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. RODRIGUEZ.
H.R. 31: Mr. KERNS.
H.R. 41: Mrs. DAVIS of California.
H.R. 68: Mr. ISRAEL.
H.R. 85: Mr. EVANS.
H.R. 123: Mr. CRANE.
H.R. 267: Mr. EVANS.
H.R. 296: Ms. SOLIS.
H.R. 303: Mr. LARSON of Connecticut.
H.R. 317: Mr. MCGOVERN.
H.R. 325: Mr. BLAGOJEVICH and Mr. NORWOOD.
H.R. 356: Mr. MCGOVERN and Mrs. CAPITO.
H.R. 440: Mr. TIERNEY and Mr. DEFAZIO.
H.R. 507: Mr. KERNS.
H.R. 526: Mr. NORWOOD, Mr. SMITH of New Jersey, Mr. BARR of Georgia, Mr. DOGGETT, Mr. LARSEN of Washington, Mr. BACA, Ms. MCKINNEY, Mr. MURTHA, Mr. BARCIA, Mr. BLAGOJEVICH, Mr. NEAL of Massachusetts, Mr. MORAN of Virginia, Mr. SHOWS, Mrs. CHRISTENSEN, and Mr. HILL.
H.R. 538: Mr. WU.
H.R. 590: Mr. BENTSEN.
H.R. 602: Mrs. BIGGERT.
H.R. 612: Mr. SMITH of Washington, Mrs. MCCARTHY of New York, and Mrs. JOHNSON of Connecticut.
H.R. 619: Ms. SOLIS.
H.R. 656: Mr. PAUL and Mr. BURTON of Indiana.
H.R. 659: Ms. CARSON of Indiana.
H.R. 662: Mr. PHELPS and Mr. EHLERS.
H.R. 692: Mr. RADANOVICH and Mr. OTTER.
H.R. 746: Mrs. CAPITO.
H.R. 751: Mr. MCHUGH.
H.R. 757: Mr. OWENS.
H.R. 761: Mr. ALLEN.
H.R. 774: Mr. SPRATT.
H.R. 782: Mr. ROGERS of Michigan and Mr. GILLMOR.
H.R. 796: Mr. KLECZKA.
H.R. 822: Mr. DEFAZIO.
H.R. 843: Mr. GILMAN and Ms. MCKINNEY.
H.R. 848: Mr. ENGEL, Mrs. MALONEY of New York, and Ms. LOFGREN.
H.R. 853: Mr. PLATTS.
H.R. 854: Mr. LUCAS of Kentucky, Ms. WOOLSEY, Mr. SPRATT, and Ms. LOFGREN.
H.R. 887: Mrs. CAPITO.
H.R. 951: Mr. BARCIA, Mr. GILLMOR, Mr. MOLLOHAN, Mr. MCGOVERN, Mr. EHLERS, Mr. PITTS, Mr. HOEFFEL, Mr. ENGLISH, Mr. CUMMINGS, Mrs. KELLY, Mr. DEMINT, and Mr. SUNUNU.
H.R. 975: Mr. CROWLEY and Mr. ROSS.
H.R. 981: Mr. SHADEGG, Mr. RAMSTAD, Mrs. JOHNSON of Connecticut, Mr. MICA, and Mr. CANNON.
H.R. 1024: Mr. MORAN of Kansas, Mr. SWEENEY, Mr. SHADEGG, Mr. POMBO, Mr. HAYES, and Mr. NEAL of Massachusetts.
H.R. 1037: Mr. ISAKSON, Mr. CLEMENT, and Mr. MCGOVERN.
H.R. 1073: Mrs. MALONEY of New York, Mr. ROSS, Mr. SIMMONS, Mrs. KELLY, and Mr. LARSON of Connecticut.
H.R. 1076: Mr. ROTHMAN, Mr. HOYER, Ms. SANCHEZ, Mr. ORTIZ, Mr. MOLLOHAN, Mr. OLVER, Mr. SNYDER, Mr. SCHIFF, Mr. FATTAH, and Mr. LIPINSKI.
H.R. 1082: Mr. LEACH, and Mr. TIAHRT.
H.R. 1097: Mr. LARSEN of Washington, Mr. LANGEVIN, and Mr. MARKEY.
H.R. 1110: Mr. EHLERS.
H.R. 1154: Mr. TOWNS.
H.R. 1155: Mr. WAXMAN, Mrs. BONO, Ms. LOFGREN, Mr. LOBIONDO, Mr. MATSUI, Mr. HOBSON, Mr. PLATTS, Mr. BONIOR, Mr. LAHOOD, and Mr. HONDA.
H.R. 1164: Mr. HILLIARD.
H.R. 1198: Mr. BOSWELL and Mr. MCDERMOTT.
H.R. 1232: Mr. STRICKLAND and Mr. MCGOVERN.
H.R. 1238: Mr. MCHUGH, Mr. JONES of North Carolina, Mr. GONZALEZ, Mr. DOYLE, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. CUMMINGS, Mr. PLATTS, Mr. NEAL of Massachusetts, and Mr. EVANS.
H.R. 1289: Ms. MCCOLLUM and Mr. CONYERS.
H.R. 1291: Mr. BAKER, Mr. MORAN of Kansas, Mr. SOUDER, and Mr. TIBERI.
H.R. 1296: Mr. MATHESON, Mr. PICKERING, Ms. JACKSON-LEE of Texas, and Mr. THOMPSON of California.
H.R. 1305: Mr. DELAY, Mr. FLETCHER, and Mr. HASTINGS of Washington.
H.R. 1316: Mrs. JOHNSON of Connecticut, Mr. CLEMENT, Mr. FOLEY, and Mr. UDALL of Colorado.
H.R. 1331: Mr. BARR of Georgia.
H.R. 1342: Mr. NEY.
H.R. 1388: Mr. LUCAS of Kentucky and Mr. LATHAM.
H.R. 1412: Mrs. BIGGERT, Mr. CALLAHAN, Mr. JOHNSON of Illinois, and Ms. HART.
H.R. 1424: Mr. FILNER and Mr. PAYNE.
H.R. 1438: Mr. SPENCE, Mr. HILLEARY, Ms. DUNN, and Mr. WELLER.
H.R. 1462: Mrs. CUBIN.
H.R. 1520: Mr. THOMPSON of Mississippi.
H.R. 1522: Mr. PALLONE, Ms. CARSON of Indiana, Mr. PASTOR, Mr. RANGEL, and Mr. ABERCROMBIE.
H.R. 1542: Mr. ORTIZ, Mr. KILDEE, Mr. ALLEN, Mr. SERRANO, and Mr. BROWN of South Carolina.
H.R. 1553: Mrs. MYRICK, Mr. UDALL of Colorado, and Mr. MATSUI.
H.R. 1556: Mr. SPRATT, Mr. MCNULTY, Mr. HALL of Texas, and Mr. REYNOLDS.
H.R. 1587: Mr. BROWN of South Carolina, Mr. GONZALEZ, Mr. MCGOVERN, Mr. SCHIFF, and Mr. MATHESON.
H.R. 1596: Mr. SOUDER, Mr. RAMSTAD, Mr. GOODE, and Mr. MCGOVERN.
H.R. 1598: Mr. MCGOVERN and Mr. UPTON.
H.R. 1600: Mr. KOLBE, Mr. SESSIONS, Mr. FLAKE, and Mr. NEAL of Massachusetts.
H.R. 1605: Mr. WELDON of Florida, Mr. HASTINGS of Florida, and Mr. FOLEY.
H.R. 1613: Mrs. ROUKEMA.
H.R. 1641: Mr. GREENWOOD.
H.R. 1642: Mr. ALLEN, Mr. GEORGE MILLER of California, and Mr. SMITH of Washington.
H.R. 1656: Mr. DEUTSCH.
H.R. 1675: Mr. FLAKE.
H.R. 1682: Mrs. MCCARTHY of New York, Mr. KING, Mr. PALLONE, Mr. FROST, and Mr. OWENS.
H.R. 1685: Mr. BROWN of Ohio, Mr. PAYNE, Mr. FRANK, Mr. LANGEVIN, Mr. LAFALCE, Mr. DEUTSCH, and Mr. BONIOR.
H.R. 1687: Mr. DAVIS of Illinois.
H.R. 1690: Mr. RUSH.
H.R. 1700: Mr. RUSH.
H.R. 1701: Mr. BARTLETT of Maryland, Mr. COOKSEY, Mrs. EMERSON, Mr. POMBO, Mr. DICKS, Ms. HOOLEY of Oregon, Mr. BRYANT, Mr. SPRATT, Mr. TIAHRT, and Mr. MORAN of Kansas.
H.R. 1717: Mr. STUPAK.
H.R. 1723: Mr. HEFLEY, Mr. RUSH, Mr. HILLEARY, Mr. SIMMONS, Mrs. KELLY, Ms. MILLENDER-MCDONALD, and Mr. LIPINSKI.
H.R. 1726: Mr. FRANK, Ms. JACKSON-LEE of Texas, and Mr. RANGEL.
H.R. 1733: Mrs. JONES of Ohio.
H.R. 1734: Mrs. THURMAN, Mr. JACKSON of Illinois, Mr. BARCIA, and Mr. TIERNEY.
H.R. 1745: Mr. KIRK.
H.R. 1754: Mr. ALLEN, Mr. HILLIARD, Mr. WOLF, Mr. STUPAK, Mr. BILIRAKIS, and Mr. CROWLEY.
H.R. 1773: Mr. BALDACCI and Mr. EVANS.
H.R. 1774: Mr. COSTELLO, Mr. ROGERS of Michigan, Mr. SHOWS, Mr. SHIMKUS, Mr. TANCREDO, Mr. PLATTS, Mr. FLAKE, and Mr. SENSENBRENNER.
H.R. 1779: Mr. DEFAZIO, Mr. GEORGE MILLER of California, Mr. CLAY, and Ms. HOOLEY of Oregon.
H.R. 1781: Mr. SMITH of New Jersey.
H.R. 1795: Mrs. LOWEY, Mrs. MCCARTHY of New York, Mr. ENGEL, Mr. MCNULTY, Mr. WAXMAN, Mr. BERMAN, Mr. ENGLISH, Mrs. MORELLA, Mr. SCHROCK, Ms. DELAURO, Mr. SWEENEY, Mr. EVANS, Mr. SHERMAN, and Mr. WAMP.
H.R. 1798: Ms. ESHOO.
H.R. 1804: Ms. SLAUGHTER.
H.R. 1810: Mr. UDALL of Colorado, Ms. MCKINNEY, and Mr. OBERSTAR.
H.R. 1811: Mr. OTTER, Mr. HERGER, and Mr. HOUGHTON.
H.R. 1818: Mrs. MINK of Hawaii.
H.R. 1834: Mr. GARY G. MILLER of California, and Mr. CROWLEY.
H.R. 1839: Mr. BONIOR.
H.R. 1841: Mrs. MORELLA, Mr. BENTSEN, Mr. FALEOMAVAEGA, Mr. LAFALCE, Mr. INSLEE, Mr. NEAL of Massachusetts, and Mr. OWENS.
H.R. 1864: Mr. PAYNE.
H.R. 1891: Mr. TIBERI, Mr. FERGUSON, Mr. CLEMENT, Mr. SMITH of New Jersey, Mr. SESSIONS, Mr. PENCE, Mr. BACHUS, Mr. SHIMKUS, Mr. LAHOOD, and Mr. BLUNT.
H.R. 1892: Mrs. BIGGERT, Mr. WAXMAN, Ms. SANCHEZ, and Mr. RUSH.
H.R. 1897: Mr. PAYNE, Mr. ROSS, and Mr. HINCHEY.
H.R. 1922: Mr. PAYNE.
H.R. 1928: Mr. MCGOVERN.
H.R. 1929: Mr. MCGOVERN, Mr. WAXMAN, Mr. LARSEN of Washington, and Ms. LOFGREN.
H.R. 1942: Mr. EVANS and Mr. JOHNSON of Illinois.
H.R. 1945: Mr. PAYNE and Mr. SMITH of New Jersey.
H.R. 1950: Mr. BURTON of Indiana.
H.R. 1978: Mr. CAPUANO, Mr. FILNER, Ms. JACKSON-LEE of Texas, Mr. OLVER, Ms. SCHAKOWSKY, and Ms. WOOLSEY.
H.R. 1984: Mr. HILLEARY.
H.R. 1992: Mr. GRAHAM and Mr. TANCREDO.
H.R. 1997: Mr. FILNER, Mrs. THURMAN, and Mr. FRANK.
H.R. 2001: Mr. LARGENT.
H.R. 2005: Mr. BROWN of Ohio, Mr. CLAY, Mr. FROST, Mr. KUCINICH, and Mr. FRANK.
H.R. 2008: Ms. WATSON, Mr. HASTINGS of Florida, Mr. FORD, Mr. MEEKS of New York,

Ms. MCKINNEY, Ms. LEE, Mr. BISHOP, Mr. CLAY, Mr. OWENS, Mr. CUMMINGS, Mrs. CLAYTON, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2013: Mr. DEFAZIO, Mr. JACKSON of Illinois, Mr. LUTHER, and Ms. LEE.

H.R. 2036: Mr. BACHUS, Mr. TERRY, Mr. TAYLOR of North Carolina, Ms. MCKINNEY, Ms. RIVERS, Mr. WOLF, Mr. DEFAZIO, Mr. OWENS, Mr. MCNULTY, Mr. LARSON of Connecticut, Mr. CLAY, Mr. KOLBE, Ms. HART, Mr. BALDACCI, and Mr. BOYD.

H.R. 2055: Mr. ISTOOK, Mr. PENCE, Mr. JONES of North Carolina, Mr. SCHAFFER, Mr. BURTON of Indiana, Mr. TOOMEY, Mr. LARGENT, Mr. DEMINT, and Mrs. MYRICK.

H.R. 2064: Mr. KILDEE, Mr. CLAY, and Ms. MCCOLLUM.

H.R. 2073: Mr. SHOWS, Mr. SMITH of New Jersey, Mr. GOODE, Mr. MCGOVERN, Mr. KILDEE, Mr. FILNER, Mr. RAHALL and Mrs. THURMAN.

H.R. 2074: Ms. CARSON of Indiana.

H.R. 2078: Mr. JACKSON of Illinois, Mr. CRANE, Ms. PELOSI, Mr. HALL of Texas, Mr. BOYD, Mr. STENHOLM, Mr. PHELPS, Mr. TOM DAVIS of Virginia, Mr. CALVERT, Mrs. BIGGERT, Ms. HART, Mr. JONES of North Carolina, and Mr. ANDREWS.

H.R. 2095: Ms. MCKINNEY.

H.R. 2096: Mr. GRUCCI, Mr. AKIN, and Mr. BURTON of Indiana.

H.R. 2102: Mr. CLAY, Mr. COSTELLO, Mr. MCINTYRE, Mr. RODRIGUEZ, Mr. FROST, and Mr. BALDACCI.

H.R. 2118: Mr. FROST and Mr. WAXMAN.

H.R. 2123: Mr. GILLMOR, Mr. SHERMAN, Mr. PLATTS, and Ms. BALDWIN.

H.R. 2131: Ms. SLAUGHTER and Mr. BERMAN.

H.R. 2138: Mr. COYNE, Mrs. JONES of Ohio, Mr. LEWIS of Georgia, and Mr. SMITH of Michigan.

H.R. 2149: Mr. PITTS, Mr. TOM DAVIS of Virginia, and Mr. KENNEDY of Minnesota.

H.R. 2156: Mr. GREENWOOD.

H.R. 2164: Mr. WEINER.

H.J. Res. 6: Mrs. THURMAN and Mr. CAPUANO.

H.J. Res. 36: Mr. HOSTETTLER, Mr. PUTNAM, Mr. KIRK, Mr. CARSON of Oklahoma, Mr. NUSSLE, Mr. NEY, Mr. NORWOOD, and Mr. STRICKLAND.

H.J. Res. 38: Ms. MCKINNEY.

H. Con. Res. 3: Ms. PELOSI.

H. Con. Res. 17: Mr. WU and Mr. MORAN of Virginia.

H. Con. Res. 20: Mr. SIMMONS, Mr. KIND, and Ms. BALDWIN.

H. Con. Res. 25: Ms. MCKINNEY, Mr. MORAN of Virginia, and Mr. WOLF.

H. Con. Res. 48: Mr. STUMP.

H. Con. Res. 68: Mr. BARCIA.

H. Con. Res. 102: Mr. MCNULTY, Ms. LEE, Mr. WEXLER, Mr. SABO, Mr. GREENWOOD, Mr. MEEKS of New York, Ms. LOFGREN, and Mr. HILLIARD.

H. Con. Res. 144: Mr. KNOLLENBERG, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. ENGLISH, Mr. CAMP, Mr. LIPINSKI, Ms. KAPTUR, and Mr. LEVIN.

H. Con. Res. 154: Mr. ARMEY, Mr. DELAY, Mr. SESSIONS, Mr. BARTON of Texas, Mr. SANDLIN, Mr. REYES, Mr. ORTIZ, Mr. FROST, Mr. GREEN of Texas, Mr. TURNER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCINTYRE, Mr. ETHERIDGE, Mrs. MYRICK, Mr. JONES of North Carolina, Mr. TAYLOR of North Carolina, Mr. BALLENGER, Mr. HAYES, and Mr. ISTOOK.

H. Res. 65: Mr. STUPAK and Mr. WICKER.

H. Res. 101: Mr. BONIOR.

H. Res. 124: Mr. KERNS, Mr. BAKER, Mr. BARTLETT of Maryland, Mr. HILLIARD, and Mr. BISHOP.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 324: Mr. DEAL of Georgia.

H.R. 1319: Ms. HART.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

28. The SPEAKER presented a petition of the Legislature of Rockland County, New York, relative to Resolution No. 244 petitioning the United States Congress to enact the Younger Americans act; to the Committee on Education and the Workforce.

29. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 241 petitioning the United States Congress and the New York State Legislature to enact legislation that would require health insurance companies to provide coverage for dental care; jointly to the Committees on Energy and Commerce and Ways and Means.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 1. June 13, 2001, by Mr. BRAD CARSON on House Resolution 146, was signed by the following members: Brad Carson, Rosa L. DeLauro, Martin Frost, Major R. Owens, Carolyn C. Kilpatrick, Stephanie Tubbs Jones, Gregory W. Meeks, Ciro D. Rodriguez, James A. Traficant, Jr., Michael M. Honda, Hilda L. Solis, Grace F. Napolitano, Shelley Berkley, Mike Thompson, Janice D. Schakowsky, John Lewis, George Miller, Nancy Pelosi, David E. Bonior, Robert E. Andrews, Karen L. Thurman, Anna G. Eshoo, Charles B. Rangel, Darlene Hooley, Dennis J. Kucinich, Steven R. Rothman, Ellen O. Tauscher, Patsy T. Mink, Benjamin L. Cardin, Wm. Lacy Clay, Carolyn McCarthy, Betty McCollum, Richard A. Gephardt, Robert A. Brady, Alcee L. Hastings, Joseph M. Hoeffel, Brad Sherman, Brian Baird, Karen McCarthy, Robert Menendez, Barbara Lee, Juanita Millender-McDonald, Danny K. Davis, Jesse L. Jackson, Jr., David D. Phelps, Rod R. Blagojevich, Donald M. Payne, Rick Larsen, Mike McIntyre, James R. Langevin, Earl Blumenauer, Ruben Hinojosa, Baron P. Hill, John F. Tierney, Adam B. Schiff, Diane E. Watson, Dale E. Kildee, Nick Lampson, Jim McDermott, Eva M. Clayton, Sanford D. Bishop, Jr., Albert Russell Wynn, Frank Mascara, Jane Harman, Robert T. Matsui, Bob Etheridge, John M. Spratt, Jr., Peter A. DeFazio, Lynn C. Woolsey, John B. Larson, Charles A. Gonzalez, Thomas H. Allen, Xavier Becerra, Steve Israel, Susan A. Davis, Jim Matheson, Mike Ross, Gene Green, Silvestre Reyes, Joe Baca, Ronnie Shows, James H. Maloney, Barney Frank, Fortney Pete Stark, Bob Filner, Lois Capps, Tom Udall, David Wu, Thomas M. Barrett, Vic Snyder, Carolyn B. Maloney, Gary A. Condit, Gerald D. Kleczka, Robert A. Borski, Lane Evans, Patrick J. Kennedy, James P. McGovern, John W. Olver, Harold E. Ford, Jr., Loretta Sanchez, Martin T. Meehan, Ted Strickland, James A. Barcia, Lynn N. Rivers, Solomon P. Ortiz, Bob Clement, David E. Price, Michael E. Capuano, Jose E. Serrano, Maurice D. Hinchey, Ken Lucas, Diana DeGette, Zoe Lofgren, Carrie P. Meek, Max Sandlin, Corrine Brown, William D. Delahunt, Rush D. Holt, Anthony D. Weiner, Tammy Baldwin, Tony P. Hall, Cynthia A. McKinney, Sheila Jackson-Lee, Marcy Kaptur, Julia Carson, Eliot L. Engel, Christopher John, Lloyd Doggett, Luis V. Gutierrez, Joseph Crowley, Maxine Waters, Bart Gordon, Chaka Fattah, Robert Wexler, Jim Davis, Michael R. McNulty, Leonard L. Boswell, Bart Stupak, Tim Holden, Bill Pascrell, Jr., Frank Pallone, Jr., Ron Kind, John Elias Baldacci, Dennis Moore, Adam Smith, Ken Bentsen, Peter Deutsch, James P. Moran, Sherrod Brown, Ed Pastor, Nydia M. Velazquez, William J. Jefferson, John J. LaFalce, Tom Lantos, Edolphus Towns, Bernard Sanders, Jay Inslee, William O. Lipinski, Mark Udall, Nick J. Rahall II, David R. Obey, Sander M. Levin, Chet Edwards, Jerrold Nadler, Marion Berry, Gary L. Ackerman, Earl F. Hilliard, John Conyers, Jr., Louise McIntosh Slaughter, Bennie G. Thompson, Elijah E. Cummings, John D. Dingell, Bobby L. Rush, Melvin L. Watt, Howard L. Berman, Edward J. Markey, James L. Oberstar, Ralph M. Hall, Calvin M. Dooley, Michael F. Doyle, Bill Luther, Robert E. (Bud) Cramer, Jr., Ike Skelton, Earl Pomeroy, Lucille Roybal-Allard, William J. Coyne, Jerry F. Costello, Allen Boyd, Nita M. Lowey, James E. Clyburn, Paul E. Kanjorski, Steny H. Hoyer, Norman D. Dicks, Henry A. Waxman, Sam Farr, Robert C. Scott, and Neil Abercrombie.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, JUNE 14, 2001 No. 83

Senate

The Senate met at 9 a.m. and was called to order by the Honorable Bill Nelson, a Senator from the State of Florida.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, today, on Flag Day, we remember that memorable Flag Day, June 14, 1954, when President Dwight Eisenhower stood on the steps of the Capitol and recited the Pledge of Allegiance for the first time with the phrase, ''one Nation under God.'' We pray that we will not forget his words spoken on that historic day: ''In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war.''

Today, as we celebrate Flag Day, we repledge allegiance to our flag and recommit ourselves to the awesome responsibilities You have entrusted to us. May the flag that waves above this Capitol remind us that this is Your land.

Thank You, Lord, that our flag also gives us a bracing affirmation of the unique role of the Senate in our democracy. In each age, You have called truly great men and women to serve as Senators. May these contemporary patriots experience fresh strength and vision.

We are very grateful for the outstanding people You call to work as leaders of the Senate. Today we thank You for Sharon Zelaska and for her faithful and loyal service as Assistant Secretary of the Senate. As she retires, we praise You for her commitment to You and her patriotism to our Nation. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT G. TORRICELLI, a Senator from the State of New Jersey, 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 14, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL NELSON, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Florida thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

SCHEDULE

Mr. REID. Mr. President, on behalf of Senator DASCHLE, the majority leader, I announce that there will be 1 hour of debate divided between Senator HARKIN and Senator SESSIONS. They worked on this amendment last night. Following their presentations, there will be two rollcall votes at approximately 5 after 10 this morning. At 12 noon, we will do morning business for 1 hour as outlined last night in the unanimous consent agreement. They expect the Helms amendment to be brought up immediately after the rollcall. That would be at approximately 11 o'clock. Votes will occur throughout the day. This bill will be completed today, tonight, or tomorrow. We are going to work until we complete this legislation. If we are able to complete the bill today, of course, there will be no rollcall votes tomorrow.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

Pending:

Jeffords amendment No. 358, in the nature of a substitute.

Biden amendment No. 386 (to amendment No. 358), to establish school-based partnerships between local law enforcement agencies and local school systems, by providing school resource officers who operate in and around elementary and secondary schools.

Leahy (for Hatch) amendment No. 424 (to amendment No. 358), to provide for the establishment of additional Boys and Girls Clubs of America.

Helms amendment No. 574 (to amendment No. 358), to prohibit the use of Federal funds by any State or local educational agency or school that discriminates against the Boy Scouts of America in providing equal access to school premises or facilities.

Helms amendment No. 648 (to amendment No. 574), in the nature of a substitute.

Dorgan amendment No. 640 (to amendment No. 358), expressing the sense of the Senate that there should be established a joint committee of the Senate and House of Representatives to investigate the rapidly increasing energy prices across the country and to determine what is causing the increases.

Clinton further modified amendment No. 516 (to amendment No. 358), to provide for the conduct of a study concerning the health and learning impacts of dilapidated or environmentally unhealthy public school buildings on children and to establish the Healthy and High Performance Schools Program.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Sessions modified amendment No. 604 (to amendment No. 358), to amend the Individuals with Disabilities Education Act regarding discipline.

Harkin (for Kennedy/Harkin) amendment No. 802 (to amendment No. 358), to amend the Individuals with Disabilities Education Act regarding discipline.

AMENDMENTS NOS. 604 AND 802

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes for remarks on the Sessions amendment No. 604 and the Harkin amendment No. 802.

Who seeks recognition?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, is there any other agreement in terms of speaking between the votes? Are we going to speak and then vote? Will we just have an hour equally divided and then vote?

Mr. REID. That is true.

The ACTING PRESIDENT pro tempore. Mr. President, there will be 4 minutes of debate followed by a vote on or in relation to the Sessions amendment.

Mr. SESSIONS. On the second vote?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. SESSIONS. Thank you, Mr. President.

Mr. President, the issue we are dealing with today is a very important issue. I had no idea how significant teachers and principals and superintendents consider this issue. We have already in the course of this legislation approved a historic increase in funding for IDEA. That is going to help schools do a better job of providing specialized training for students with disabilities to a degree we have never seen before.

In fact, 10 or 15 years ago, when the IDEA matter was settled and made a part of Federal law, Congress agreed to pay 40 percent of the cost that would fall on the school system. That agreement was never honored. Congress never appropriated that 40 percent. In fact, we are closer to 10 percent, or even under 10 percent. Now I think we are around 15 or 20 percent of that commitment under the legislation that passed here. I hope we will be able to fund it. We voted to fully fund IDEA. It would be a large increase in funding for school systems.

But as I traveled my State, they expressed concern to me. I visited 20 schools in Alabama recently, and I talked to principals and teachers at each one of those schools. They tell me that funding is important. They would like more funding. Many of them know that Congress has not fulfilled that agreement. They told me. Their frustration just pours out over the Federal regulations that deal with children with disabilities.

This is the book that has the regulations in it with which they are required to comply. Lawyers, experts, testimony, and hearings occur on a regular basis. It is very difficult for teachers to be able to maintain discipline in their classrooms.

Anyone who has talked to teachers in recent years—and perhaps forever, but now I think it is more of a problem—knows they are not able to maintain the level of discipline in a classroom they would like. As a result, it makes it more difficult for them to reach the children in the classroom. It makes learning more difficult. We know that in certain nations in the world they have classroom sizes three times or four times what we have in the United States. Yet they are able to maintain discipline. We need to do a better job of maintaining discipline in the classroom. If you talk to teachers and principals, they will tell you that.

One of the greatest irritants to them is the regulation that comes out of this book. Teachers have left the profession based on it. They are incredibly frustrated. When you talk to them, their frustration pours out. They cite example after example of circumstances that you would think would not and could not happen but do happen in America. In fact, it does happen on a daily basis.

We have been thinking about how to improve this. How can we improve the ability of school systems to confront a difficult situation with compassion, with consistency in the classroom so that it is clear that no one child can rule the roost, that no one child can just take charge and know they can't be disciplined and actually utilize that power to disrupt the classroom?

We have talked with superintendents. We have talked to national leaders. We have talked to lawyers who handle these cases. We have proposed an amendment that is modest, that is less strong in some ways than others that have been adopted, but it will go a long way, if not all the way, in fixing this problem.

This is what happens: A disabled child who is misbehaving is treated in an entirely different way than a child who is not a disabled child. They have extraordinary protections that, in effect, make it difficult for discipline to even occur. Lawyers are involved in it to an extraordinary degree.

Let me read one letter from a special education coordinator who wrote about this problem. We tried to fix some of this in 1997 to improve it, but from what I am hearing in the field from the teachers, we made the situation worse, not better. This special education coordinator writes:

> The restrictions inherent in [the 1997] legislation have the potential to ''cripple'' a school system beyond repair. Although my job is to advocate for students with disabilities, I also feel a responsibility to protect the rights of all children to an appropriate education.

An elementary school principal writes:

> Today general educators at all grade levels must deal with a large number of these students who are a challenge to manage and instruct. Having to deal with these behaviors and/or to constantly change behavior interventions not only takes away important instructional time from other students, but inadvertently reinforces the disabled children's behavior. All class rules should apply to all students and therefore all students should share the same disciplinary action.

I have maybe 50 or 60 letters to that effect. Let me read a letter from one teacher who shared her thoughts on this subject:

> As a special educator for six years I consider myself ''on the front lines'' of the ongoing battles that take place on a daily basis in our nation's schools. I strongly believe that part of the ''ammunition'' that fuels these struggles are the ''rights'' guaranteed to certain individuals by IDEA '97.

Remember this is a special educator.

> The law, though well intentioned, has become one of the single greatest obstacles that educators face in our fight to provide all of our children with a quality education delivered in a safe environment. There are many examples that I can offer first hand. However, let me reiterate that I am a special educator. I have dedicated my life to helping children with special needs. It is my job to study and know the abilities and limitations of such children. I have a bachelor's degree in psychology, a masters degree in special education and a Ph.D. in good ole common sense. No where in my educational process have I been taught a certain few ''disabled'' students should have a ''right'' to endanger the right to an education of all other disabled and nondisabled children. It is nonsense. It is wrong. It is dangerous. It must be stopped. There is no telling how many instructional hours are lost by teachers in dealing with behavior problems. In times of an increasingly competitive global society, it is no wonder American students fall short. Certain children are allowed to remain in the classroom robbing other children of hours that can never be replaced. There is no need to extend the schoolday, no need to extend the school year. If politicians would just make it possible for educators to take back the time that is lost on a daily basis, to contain certain students, there is no doubt we would have better educated students. It is even more frustrating when it is a special education child who knows and boasts ''they can't do anything to me'' and he is placed back in the classroom to disrupt it day after day, week after week.

And she goes on.

There are many other letters. I thought I would share one from a student. I think it is particularly insightful into the problem with which we are dealing. We want to give every possible assistance to children with disabilities, but there are other children in the classroom also. We ought to think about them. Sometimes their very lives are at stake. Sometimes their safety is at stake. Sometimes their dignity is at stake.

This is what this 14-year-old writes. It was sent to me earlier this year:

> I am a 14 year old eighth grader. I have a problem. There is this girl that goes to school with me, she is an ADD student [disabled student]. She has been harassing me for no reason. She has pretty much done everything from breaking my glasses to telling me she is going to kill me. This really bothers me because she is an ADD student and the only punishment she ever gets is a slap on the hand. My principal says there is not much that he can do because of her status as a special ed kid. I asked what would happen if I threatened her back and he told me that I would be suspended from school and forced to stay away. The most she has ever gotten is three days ''in school'' suspension. I think this is wrong. She scares me and I am tired

of this. It has been going on for 5 months and it's really getting scary.

Unfortunately, that is not a rare event. Too often, that is what we are seeing today.

Our legislation is a realistic attempt to deal with it.

What it says is—and this is the core of it—if a child's misbehavior in the classroom is unconnected to the disability which they have, then they should be able to be disciplined like any other child in the classroom. We are not creating a permanent set of separate and unequal disciplinary actions in a classroom.

If a child has a disability and that disability is connected to their disruptive activity, then we, as a society, have decided we will not remove them from the classroom; that it is something they cannot control, perhaps, and that we will provide them some form of education, whether it is in that classroom or in an alternative setting.

But it is morally wrong and legally indefensible, in my view, to say that a child who has a mobility disability, who sells drugs in a class to other students, or who brings a gun to school—and that mobility disability has no connection whatsoever to the misconduct that they act out and do—they should not be protected and treated preferentially over the other students in the classroom.

Let me tell you what I have heard from teachers in my State. I have two different examples I will share. There are many. Two children in a car bring a gun to a school campus. They did not bring it in the classroom, but it was a clear violation of the rules. It required a suspension from the school. The nondisabled student is suspended from school. The disabled student is not suspended, or is suspended just for a few days, because they are treated separately.

Another example was told to me by teachers where one child sold marijuana to two other children on the school grounds. The seller was a disabled child. The purchasers or receivers were nondisabled children. Under the school rules, they were clearly in violation. The two who received the drugs were kicked out of school for a period of time. The one who sold the drugs was not. The teacher asked: How can we look those children in the eye? What kind of moral authority can we expect to have if we maintain discipline such as that? Isn't that wrong? It is mandated by Federal law, the IDEA regulations that are all over the country.

We want to help children with disabilities, but we do not want to create a circumstance that frustrates teachers, that undermines learning, and really does not help the child involved.

Over and over again, the letters I receive from teachers tell me they believe it is a bad learning process for a child to believe that they, in the classroom, can do things other children cannot. Then when they get out into the work world, they are treated like everybody else and end up having trouble on the job or with criminal activity.

It is a problem we can confront. This legislation says you are entitled to a hearing, but if the hearing finds that your bad activity was not directly connected to your disability, then you could be treated for disciplinary purposes like any other child in the classroom. That is only common sense. It surprises me that anyone would object to that.

Secondly, we found in the course of working on this matter that a number of parents are sacrificing to have their children take advantage of special schools. There is a great school, Talladega School for the Blind, in Alabama where a lot of children go. These are not inexpensive schools. Parents sacrifice to send their children there.

Under Federal law, the school system must give each disabled child as much assistance as they can based on their disability.

The PRESIDING OFFICER (Mr. TORRICELLI). The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, this provision would say that if the school system believes an alternative school could help and if the parent agrees, if they both agree, they could take their daily allowance for funding for that student and allow the parent to apply to another school. I note that the House voted on a tougher bill than this just the other day by an overwhelming vote. The time has come to fix this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in opposition to the Sessions amendment. I hope our colleagues will consider the alternative Senator HARKIN has offered. Let me mention that briefly and then put this into some context.

The amendment Senator HARKIN and I are proposing ensures that students with disabilities will continue to receive services even if they are suspended or expelled. It retains the noncessation of services provision in current law.

It ensures that behavioral supports are available to children so they may continue to learn. We are agreeing with Senator SESSIONS that a uniform policy of discipline for students with or without disabilities is appropriate. Where we differ is in the ultimate outcome.

Our amendment continues the services while his amendment denies them. Our communities will be safer. Our children will become better citizens, if they have the full opportunity to learn. Conversely, expulsion from school with no alternatives will lead some children down a path where no one wants them to go. That is the alternative.

I remind our colleagues of the history of the IDEA and where we have come from in terms of discrimination against those with disabilities. We have made remarkable progress on the road to free our Nation from the stains of discrimination. Discrimination was written into the Constitution. We fought a Civil War. Then again in the late 1950s, primarily with the leadership of Dr. King, and then in the early 1960s, we were able to pass landmark legislation that helped, to the extent that laws could, free us from discrimination on the basis of race, religion, national origin, gender discrimination, and discrimination on the basis of disabilities. Hopefully, we are going to free ourselves from discrimination on sexual orientation as well. It has been a very difficult march. No place has it been more difficult than trying to free the 5 million children who 25 years ago were more often locked in closets, not participating in the educational process. We have moved beyond that; we have proudly gone beyond that.

We have seen slow but continuing progress. We saw it in 1974–1975, with the leadership at that time of President Ford. We made important progress. It was in response to Supreme Court decisions that recognized that when every State constitution guaranteed education to children, it didn't mean leaving out the disabled, leaving out the handicapped. The Supreme Court said we have a responsibility to provide for children who have certain mental and physical challenges. We have embraced that.

As we have seen through this debate, we have recognized that many communities are attempting to deal with this problem. Given the complexity and the challenges of those disabilities, it is costly for many small communities. I know this is true in every State. Members have talked about small communities that have children with severe disabilities and what the impact has been in terms of taxes in the communities.

What we stated a number of years ago—10 years ago—is that we were going to at least give the assurance that the Federal Government was going to provide 40 percent of the help for education. It still is a State requirement. Make no mistake about it. If we were not providing the funds, there is still the requirement under the State constitution, according to the Supreme Court. But we said we want to participate.

That is what this legislation is about in terms of its focus on needy children. We are saying that that is a particular challenge for our country, that the poorest children, locked in rural and urban areas, are a special cause of America. We are also saying those children who have disabilities are a special cause.

That is one of the most important parts of the bill, and I am going to do everything I possibly can to ensure that it comes back from conference

with the kinds of funding we have guaranteed in this legislation.

There has been slow progress in giving assurance to children that they are going to have an opportunity to get a decent education in our public schools.

This issue the Senator from Alabama has raised has been before the Senate on a number of occasions. The place to deal with it is when we do the reauthorization of the IDEA, which is going to occur next year. That is the appropriate place to deal with it. We haven't had the hearings. We haven't conducted the studies. We haven't had review. We have anecdotal evidence the Senator from Alabama has provided to us.

Let's take the General Accounting Office. I listened to the Senator from Alabama talk about various letters. You can get letters on school behavior from any school in the country. Public schools are still the safest place in America for children, and we know the number of incidents taking place in public schools generally in any event. You could get 1,000 letters from many cities on kids and their concerns about safety.

We have to do something about it. We are trying to do something about it. We have included that in the legislation. I will not spend the time in reviewing that at this moment, but we have taken many steps to ensure safer and better education in the community.

Let's look at student discipline. In January 2000, just 2 years ago, we adopted new disciplinary procedures for the public schools. Here is the GAO report:

> Nevertheless, responding principals generally regarded their overall special education discipline policy as having a positive or neutral effect on the level of safety and orderliness in their schools.

That is the GAO. That is not anecdotal. That is not coming here to the Chamber and reading four or five letters from students. That is what the General Accounting Office said. They are not advocating my position or the position of the Senator from Alabama. They are trying to give us the facts, and these are the facts. The facts are not the anecdotal message of the Senator from Alabama.

That is what is happening out there. Now, you can go through the study and you will find out that 27 percent of the principals report that a separate discipline policy for special education—20 percent reported that the disciplinary procedures for IDEA are burdensome and time consuming. I would like to do something about that, but we are not doing that here on the last 1-hour time distribution on the Elementary and Secondary Education Act. We ought to be able to do something on it.

I would like to get the best people here, the GAO people who wrote that report. I would like to hear their testimony and get their recommendations. I would like to help those schools.

But that isn't what this amendment is all about. That is not what this is all about. It is taking children who have, in these instances, a disciplinary problem—and note the words of art related to their particular disability. In fact, if you knock those children out, we know what happens. It is five or six times as likely that they will never come back to education once they lose that continuing education. Those are the statistics. We know what is going to happen. Those children are gone, out.

Now, this is a difficult challenge, but it is a challenge that I think most of us think is worth it. What we have seen, as the Senator from Iowa pointed out very eloquently last night, is the extraordinary road to progress when local communities and school districts attempt to deal with these issues, with extraordinary kinds of results, incredible kinds of reactions. I could spend the time, which I don't have here, reading letters that have been written by parents who say their children have learned how to love because they have a child in the class who has learning disabilities, and we know the problems they have. We have spent time working with those children and other children who come together. Do you want to throw those kids out? Do you want to throw them out because they have had a cigarette outside in the lobby which was not related to their disability? Throw them out? My goodness. If we are going to have to have a full debate, let's do it, but do it on the reauthorization. Let's not take the final hours here to throw them out of school. That is what this amendment does, make no mistake about it.

This is a basic major retreat, Mr. President, on the march of progress for disabled children. It is unworthy of this body, with the progress that we have made, to go backward. That is where this amendment takes us. We have a very solid alternative which is responsive to any of the continuing challenges. It has been offered by Senator HARKIN. Every Member can vote for it with pride and hold their head high. I give assurance to the Senator from Alabama, if he wants to do that next year, he can be our first witness on the reauthorization of IDEA. If he wants other people on the panel that sustain his position, we will welcome them, too.

Let's not effectively undermine the solid progress that we have made for children in this country over the period of the last 25 years. That is what the Sessions amendment does. We should reject it.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator has his own time, 15 minutes.

Mr. HARKIN. Mr. President, I want to associate myself fully with the statement just made by the chairman of our committee regarding the amendment I spoke on last night. I intend to speak a few more minutes this morning. First of all, sometimes good things happen, and we ought to take notice of them.

Apropos of this debate we are having about kids with disabilities in schools, there is an article that recently appeared in the Washington Post on June 10th. It is a great story of the success of the Individuals with Disabilities Education Act. It is headlined, ''Autistic Teen in DC School Goes to Head of Class.'' It talks about ''Lee Alderman, a shy 19-year-old with autism, who will become the first special education student in the district, and perhaps in the metropolitan area, to graduate as valedictorian of his public high school class.'' This kid with a disability had a lot of problems going through school. He had the support of IDEA.

Mr. President, I talk about that because in these debates we hear about discipline problems and all the things that are happening. We forget the hundreds of thousands of success stories that happen because of the Individuals with Disabilities Education Act, such as the one I just mentioned here with Lee Alderman. Yet we pick out a problem in this school or one in that school and we blame the kids with disabilities. I don't know why we continue to do that.

I have pointed out many times how I have looked at schools where they have discipline problems, and they get a new principal and institute procedures according to the Individuals with Disabilities Education Act, and their problems go away.

The easy thing is always to get a kid with a disability out of the classroom, segregate them. My principal objection to the Sessions amendment is that it results in segregation—we are going to once again turn the clock back to the days when we segregated kids with disabilities, when we took kids from their homes and their communities and sent them sometimes halfway across the State to live in an institution to go to a special school.

As I said last night, that is my personal story. My brother, who was deaf, was taken from his home, his community, his family, his friends, and sent halfway across the State to a boarding school for the deaf and the dumb, as they called it in those days. He was segregated from his family, his community, only because he was deaf. Mr. President, I don't want to go back to those days—back to the days when these kids were shuffled off to institutions.

That is why we passed the Individuals with Disabilities Education Act—to mainstream kids. That is why we passed the Americans with Disabilities Act—to say that it is wrong to discriminate against anybody, not just on the basis of race, sex, color, creed, national origin, but also disability. As a result of this, kids with disabilities have gone to school with their friends and their neighbors, kids they know

and with whom they associate. It has provided opportunities for these kids with disabilities. But more than that, it has provided the opportunities for kids without disabilities to be intimately associated in the classroom with kids who do have disabilities. I believe both have gained from this experience. I don't want to turn the clock back.

The Sessions amendment basically would allow that segregation—take the kid out and put him in some segregated setting, without the protections of current law.

Under IDEA, the law as it is presently constituted, can a child with a disability be segregated? The answer is yes. If that child is a safety risk to himself or herself, or to others. And, even if it is a manifestation of their disability, that child can be segregated, but only after a process in which the school has to show that they have provided adequate services for this kid.

Last night, I gave an example of a child in a classroom. They had a TV monitor. He was watching it. The kid was deaf and some of the educational materials were put on the television monitor. But there was no captioning on it. So this went on, I don't know how long—a couple of days. Then the kid started throwing things. Then he started punching the kid next to him and things like that. Well, they kicked him out of the class. But, because of IDEA, there was a process to find out why that child acted out. When they brought in an interpreter, they found out the kid was frustrated because he could not understand what was going on. He was not getting the proper services. Under the Sessions amendment, that would not happen. That kid could be taken out, if he done something like that, without the protections of current law and could be segregated from that classroom.

Mr. SESSIONS. Will the Senator yield for a question on that?

Mr. HARKIN. Just one minute. Yes, I will yield, but I may ask for more time if I yield. I would not mind getting into a discussion.

Mr. SESSIONS. I would not want the due process hearing to be eliminated. I don't intend to do that in the legislation. If there is any language there that does that, I will be glad to discuss it with the Senator. I do not believe it does.

Mr. HARKIN. Mr. President, if you look at my amendment, section 2, limitation, in general——

Mr. SESSIONS. The Senator's amendment or mine?

Mr. HARKIN. My amendment.

Mr. SESSIONS. The Senator said mine eliminated a due process hearing. I would like for him to say where it does that.

Mr. HARKIN. Right in ''(2) Limitation.—(A) In General.—'' where you say ''shall receive a free appropriate public education which may be provided in an alternative educational setting.'' My amendment adds the words ''pursuant to Sec 615K'' which does provide that. The Senator's amendment does not provide that. I ask him to look at that. That is not provided.

To me, that was the biggest problem. I have other problems with his amendment. That is the single biggest problem right there. I point that out.

Look at my amendment; I put in the words ''pursuant to Sec 615K.''

That is one big problem with this amendment. The second problem is the cessation of services, and this is equally as important, perhaps, as the segregation.

I agree with the Senator from Alabama; if a student with a disability violates a school rule and if that behavior is not related to his disability, that child should be disciplined in the same manner as any other child, and IDEA allows for that.

Under the Individuals with Disabilities Education Act, let's say a child with a disability is caught smoking in the parking lot and that is a violation of school rules but it is not a manifestation of that child's disability. That child can be disciplined just as any other child who was caught smoking in that parking lot. No ifs, ands, or buts about it.

Here is the point: They can be disciplined, but the educational services cannot be stopped. We continue the services to this child.

Here is the difference between the approach of the Senator from Alabama and mine. I do not believe educational services ought to be stopped for any child. Two years ago, we had the juvenile justice bill before the Senate. I offered an amendment at that time, which was adopted, which said that if a student with or without a disability was disciplined and was segregated or moved out of the school setting, educational services had to be continued.

Why is it that if we are going to expel a student, we are just going to throw them out on the street? We shift the problem to the streets when it may be a family problem or it could be a host of reasons why this young person is acting up.

The juvenile justice bill continued services for every child, not just kids with disabilities, but every child who was disciplined and removed from a school setting continued to receive educational services.

My approach was to expand the concept of IDEA to all students. The approach of my friend from Alabama is let's take away everything, all of the services, even from kids with disabilities. That is the difference in approach. If one believes that a kid with a disability who is caught smoking in the parking lot and is kicked out of school because that is the school policy ought to be thrown on the street and receive no educational support, no educational services, then that is what the Sessions amendment does. But if one thinks that child should continue to receive educational services, that is not contained in his amendment; he wipes that out. Under IDEA, as the law is constituted today, that child will continue to get services.

Two years ago when I offered this amendment on the juvenile justice bill, I had major police and law enforcement agencies of America supporting my amendment because they wanted to continue educational services to these kids.

Law enforcement and parents all agree that ceasing services is the wrong answer, and yet I point out to my friend from Alabama, under paragraph (C) of his amendment, all of these services are ceased. My amendment leaves the same language as the Senator from Alabama, except I say ''except as provided in 612(a)(1)'' which means they continue the services. They can still be kicked out of school, make no mistake about it. They can be kicked out, but educational and other services that a disabled child needs will continue.

I have lived with this now for most of my life. I have lived with IDEA for 26 years. It just seems as if every year we get some amendment that comes up to do something about kids with disabilities and discipline in school. Look, I do not mind, I say to my friend from Alabama, if he wants to do something about discipline in schools. I am sure there is something we can do about discipline in schools without encroaching on local control. But why focus on kids with disabilities? Why pick on the most vulnerable of our society? When we look at all of the school shootings from Columbine to Oregon to Pennsylvania, and I think there was one in Arkansas, not a one of those involved a child with a disability—not one. Yet every time we have something like that flare up, there is always an amendment that comes out that goes after kids with disabilities. It is not right. It is not fair.

We have been through this before. We have been through it time and time again. I repeat for emphasis' sake what the Senator from Massachusetts said. We had a GAO study done of this. I wanted to get a study done to find out whether or not kids in special education were getting special treatment in the schools. Here is what the GAO report said in January, and I quote:

> Special education students who are involved in serious misconduct are being disciplined in generally a similar manner to regular education students based on information that principals reported to us and our review of the limited extent research.

That means IDEA is not limiting the ability to discipline children with disabilities. Really, what the Sessions amendment does is, under the guise of discipline, it will allow schools to turn the clock back and segregate these kids again. It will allow us to turn the clock back and stop services to these kids.

As the Senator from Massachusetts said, we know a lot of times families with kids with disabilities are struggling. They do not have a lot of wherewithal. Kids get kicked out, they get

disciplined, families throw up their hands, the kids get thrown on the streets, and they never come back. They do not come back. We all know what happens then, and we know what happens to them after that. They wind up in our jails, in our prisons.

We have taken major steps in this country to integrate kids with disabilities.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. I ask unanimous consent for 5 minutes.

Mr. SESSIONS. Objection. Five minutes is a bit much at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. I ask unanimous consent for 3 more minutes.

Mr. SESSIONS. OK. Three on each side?

Mr. REID. Reserving the right to object, I think we should have 3 minutes for the opposition to this amendment also.

Mr. HARKIN. Sure, that is all right.

Mr. SESSIONS. Three minutes a side is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, as I was saying, we have come a long way, and we should not turn the clock back. On this very bill we are discussing, Senator HAGEL and I offered an amendment that fully funds the Individuals with Disabilities Education Act that we passed 26 years ago. That is in this bill. It is not an authorization; it is actually an appropriation in this bill, and it was adopted unanimously by the Senate by voice vote. That means school districts now will have more Federal funds coming in to help them provide the services these kids need.

Let's not resegregate these kids until we see the outcomes of full funding. We are now going to give the schools the support and the finances they need to make sure they get the appropriate services for these kids with disabilities.

The amendment I have pending in many ways is similar to the amendment of the Senator from Alabama, but it does not segregate and it does not stop services. It does allow schools to discipline kids with disabilities, it allows them to even kick them out, but it does not allow them to segregate or stop services to the kids with disabilities. I think that is a vital, important difference between these two amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will take managers' time.

The PRESIDING OFFICER. The Senator from Alabama was yielded 3 minutes.

Mr. SESSIONS. I will take that time.

Let me respond first to the distinguished Senator from Iowa. I know how deeply he cares about this issue. I understand his concerns. We are not trying to undertake anything that would be detrimental to children with disabilities.

I want him to understand clearly that under the example cited about a child who was frustrated because they could not hear the television—and some of those things happen—under this amendment I have presented, that child could not be removed without a manifest determination hearing, and if in any hearing that would occur it is clearly shown there was a connection between his disability and his behavior, he could not be denied school services.

That is the difference between our amendment and the one that passed the House a few weeks ago in May that does not provide for the hearing. Under the House bill that passed by 250 or 40-some-odd votes, they would be treated as any other child for disciplinary purposes.

Mr. GREGG. Will the Senator yield?

Mr. SESSIONS. I yield.

Mr. GREGG. I yield such time as I may have under this amendment to the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. For example, it says for disciplinary purposes the children shall be treated equally.

''(2) LIMITATION.—

''(A) IN GENERAL.—A child with a disability who is removed from the child's regular educational placement under paragraph (1) shall receive a free appropriate public education which may be provided in an alternative educational setting if the behavior that led to the child's removal is a manifestation of the child's disability, as determined under subparagraphs (B) and (C) of subsection (k)(4).

''(B) MANIFESTATION DETERMINATION.—The manifestation determination shall be made immediately; if possible, but in no case later than 10 school days after school personnel decide to remove the child with a disability from the child's regular educational placement.

I wanted to get that straight. I know the Senator cares deeply about that.

Mr. HARKIN. Will the Senator yield?

Mr. SESSIONS. Yes.

Mr. HARKIN. I point out to the Senator, in all fairness, the paragraph just quoted leaves our ''pursuant to section 615(k)'' of the underlying bill which provides for that due process hearing. That is not in your amendment.

Mr. SESSIONS. Our amendment further says:

(A) REVIEW OF MANIFESTATION DETERMINATION.—If the parents or the local educational agency disagree with a manifestation determination under subsection (n)(2), the parents or the agency may request a review of that determination through the procedures described in subsections (f) through (i).

current law, and we provide for the hearing.

Mr. HARKIN. Later, after they are kicked out.

Mr. SESSIONS. The school gets to protect the students until it is complete, no later than 10 days. I think the school system ought to be given some deference. The principals and the teachers love children. They care about their school. They want to do the right thing. We have pounced on them.

Why does the disability act come up in the U.S. Congress? Because it is a Federal law that is controlling our teachers and principals. When they express concern to us, we should listen.

I am pleased to yield 7 minutes to the distinguished Senator from Virginia, Mr. ALLEN. He was a former Governor and was deeply involved in education.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes 23 seconds; the Senator from Iowa has 1½ minutes; and the Senator from Alabama has 13 minutes 49 seconds.

Mr. KENNEDY. I am interested because I thought we had an hour evenly divided at 9 o'clock. I know we went to this a few minutes after 9.

The PRESIDING OFFICER. There was an additional 6 minutes added by unanimous consent.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise in support of the Sessions amendment which would properly return the ability to the local schools and principals to establish and implement uniform discipline policies applicable to all children in our States and school districts.

I have been listening to a lot of comments back and forth. One of the reasons this issue comes back year after year after year is that it is an issue in local schools year after year after year and it becomes an issue in campaigns.

The issue is not whether or not we support IDEA or support education and helping those with disabilities. We clearly all agree with that. The issue is whether or not we are going to have a uniform standard of conduct applicable to all students within a public school system. That is the issue.

I was involved in this issue from the first month I came in as Governor of Virginia in 1994 where we had these problems with this Federal law. We took the Department of Education to court in Commonwealth of Virginia v. Riley. We went to the appellate court and prevailed. Then in 1997 our victory for maintaining order and discipline in our schools was taken away by the action of the House and the Senate.

I can promise the Senator from Iowa, the Senator from Massachusetts, and the Senator from Alabama that discipline or expulsion is not taken lightly in Alabama or Virginia—or I can't imagine in any school. To accuse our educators, our States, our school boards of wanting to unfairly discriminate against students with disabilities and shirking their responsibility by unfairly expelling them is unfounded and wrong.

It is not a question of a kid smoking a cigarette in the parking lot. The issues are students who set up cocaine rings, sell explosives that blow off a child's hand, or bloody another student with brass knuckles. If a child has an epileptic fit and breaks a teacher's

nose, that is usually a mitigating factor so a child will not be expelled.

Here are actual cases in Fairfax County, not too far from here, in public schools. A group of students brought in a loaded 357 magnum handgun. It was recovered in the school building. The non-special-education students were expelled. One student, however, was identified as learning disabled due to the student's weakness in written language skills. The team reviewed the evaluations and found there was no causal relationship between the student's writing disability and the student's involvement in the weapons violation. The student was not expelled. That student later bragged to teachers and students at the school that he could not be expelled.

In another recent case in Fairfax High School, a student was part of a gang that was involved in a mob assault on another student. One student involved in the melee used a meat hook as a weapon. Three of the gang members were expelled; the other two who were special ed students were not expelled and are still in the school.

These are the real situations where there is not an equal or fair administration of standards of conduct in the schools. I think we all care about good school conduct. We want small class sizes, good academics, good assessments, empowerment of parents, and all the rest. What also is important is a conducive learning environment.

We need to trust in and take care to allow the responsibilities for maintaining order and discipline in schools to be where they properly belong and not have a Federal law that really justifies a double standard on discipline for disabled and nondisabled students, despite our shared efforts to ensure equal treatment and inclusion into a mainstream system.

The Sessions amendment would return authority for all students back to the States and local schools where it belongs. It is for the parents, teachers, and community, not Washington, to know what is best for students. We want to provide students with a safe learning environment, but we do not need any illogical interference from the Federal Government.

I hope my colleagues will support the Sessions amendment. I thank Senator SESSIONS for his brave leadership on this issue. I ask Senators to stand by your local schoolteachers, stand by your principals, by providing fair and equal standards of conduct for all students, and please support the Sessions amendment.

I yield the remainder of my time.

Mr. KENNEDY. Mr. President, I am absolutely amazed and shocked at the comments of the Senator from Virginia, talking about drugs, guns, and bombs. Why didn't they call 911? They can be held and expelled. Now we are finding out what this is all about: Guns, drugs, and bombs in schools—that disabled children are doing it? Demonstrate it.

I give you the General Accounting Office report that says there is no such thing that is happening. This is not something we are proposing. This is a study on discipline and school behavior. If you can find the words ''guns, bombs, and drugs'' in here, go ahead and find them. It reaches entirely different conclusions.

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. No, I don't yield. You talk about it, that it comes up in campaigns. You bet it does. And we have just heard it, we have just seen it. We just heard and understand the reasons.

If there is a problem, as the Senator from Alabama says, we don't find it in the General Accounting Office report. Anyone can get anecdotal information that there is a problem here and there in some schools. But that just doesn't happen. That is not the case. That is not what the General Accounting Office in its report of January of this year stated.

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. If you have a different conclusion from that, present it. But just to say look, there are guns, bombs, and drugs, all these disabled children all over, disrupting, disrupting—we are used to that. We have heard that kind of presentation. That is not what this is about. These children have faced these challenges along the line. This is what the General Accounting Office report says.

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. I have limited time, Senator. I was here last evening ready to debate it, and I was here earlier ready to debate it.

Mr. ALLEN addressed the Chair.

Mr. KENNEDY. I ask for order, Mr. President. Who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. KENNEDY. I yield myself 1½ minutes.

This is what it says:

> Special education students who are involved in serious misconduct are being disciplined in generally a similar manner to regular education students, based on the information principals reported to us and our review.
>
> [P]rincipals generally rated their school's special education discipline policies . . . as having a positive or neutral effect on the level on [school] safety and orderliness.

That is what this report, the General Accounting Office report, says:

> Based on our analysis of disciplinary actions and past research, regular education and special education . . . were treated in a similar manner.

There is the General Accounting Office report. We have, with 1 hour on the reauthorization of this act, a proposal that is going to take away the kind of education support systems the Federal Government pays for—not Virginia pays for but the Federal Government pays for. That is the effect of it.

You wanted to wipe that out.

The amendment Senator HARKIN has introduced is very clear in what it permits, what it allows. The amendment says that students with disabilities will continue to have services, even if they are suspended or expelled. It retains the noncessation of service provisions in current law and ensures that behavioral supports are available to children so they may continue to learn.

The PRESIDING OFFICER. The Senator has used his minute and a half.

Mr. KENNEDY. I will take the last minute.

We are agreeing with Senator SESSIONS; a uniform policy for students with or without disabilities is appropriate. Where we differ is in the ultimate outcome. If you want to change the IDEA law, let's do it when we do reauthorization.

I have invited the Senator from Alabama to come to our hearing. I will invite the Senator from Virginia to come and make the presentation. But to change this march we have had—not since 1994, but many of us have been here since 1974, at a time when 5 million children were being put in closets and not educated—not 1994, and we know who has been discriminated against—we are not going to march backward.

This is a major retreat in providing mainstreaming for the children of this country which is not only the right educational policy and the right, decent thing to do, but is also commanded to be done by the Supreme Court.

I hope the amendment of the Senator from Alabama is defeated and the amendment of the Senator from Iowa is accepted.

Mr. BYRD. Mr. President, I recognize that the issue of educating children with disabilities is complex. There are many factors to take into consideration as we try to determine the best possible policy to make sure that all children receive a quality education. I have no doubt that this amendment is intended to improve the educational opportunities for disabled students, but I have concerns that the amendment fails to provide protections to make sure that parents of children with disabilities are not pressured into removing their children from public schools. If a system of protections were included, I would likely support this amendment.

Further, this bill is not the appropriate place to resolve this complicated issue. In view of the fact that this Congress will reauthorize the bill that guarantees an education to children with disabilities, the Individuals with Disabilities Education Act, IDEA, I believe Congress should wait for that opportunity to make significant changes in policy concerning educating disabled children. That will allow us to fully debate these important issues, examine the alternatives, and come to a clearer understanding of how to best educate disabled children in this country. I am voting against this amendment today,

but I look forward to revisiting this issue during the reauthorization of the IDEA.

Mrs. CLINTON. Mr. President, I rise today in opposition to both Senator SESSIONS' and Senator HARKIN's amendments, which attempt to reach the goal of helping school districts establish and implement discipline policies that are consistent for every child in the school district.

I strongly believe that we do need to come to a resolution in Federal law that will help school districts appropriately discipline students when they act out violently or in a way that disrupts the learning of other students, but that we should be certain that our actions do not punish children for their disabilities.

The problem we have, at hand, is that the 1997 IDEA reauthorization, as passed and implemented, has developed a separate discipline policy for children in special education, which many school superintendents have found unequal and unfair in their efforts to maintain discipline in their schools. In fact, a recent GAO report, published in January of this year, found that while many principals believe that the differing school policies had a neutral effect on their schools, 27 percent of principals did believe that a separate discipline policy for special education students is unfair to the regular student population.

Now, I want to be very clear that my intention is not to go back to the pre-1975 days when students with disabilities were segregated from the regular student population or, even worse, were denied education all together. In fact, in the early 1970s, I walked door to door trying to figure out why so many children were staying home from school. The census, at the time, showed that there were 2 million children out of school so the Children's Defense Fund worked to answer the question of why these children were not in school. While working for the Children's Defense Fund, I was one of the researchers who found that approximately 750,000 of these children were being kept out of school because they were handicapped. This research led to the first-ever report by the Children's Defense Fund, ''Children out of School in America,'' which helped provide solid research to pass the Education for All Handicapped Children Act of 1975.

As the Progressive Policy Institute so eloquently concluded in a recent report, thanks to this law ''today many disabled children in America have the opportunity to obtain high-quality educational experience tailored to their needs and circumstances, the priorities of their parents, and the judgements of their teachers.'' This report goes on, however, to point out that the law has not kept up with the challenges faced by today's schools. Discipline is a primary example. While IDEA provides protection for disabled students, many believe it goes too far. That, while protecting disabled students, the law may unintentionally harm the educational progress of other students in the classroom.

Senator SESSIONS' amendment attempts to fix this problem by eliminating all due process for children with disabilities who have disciplinary problems. Senator HARKIN's amendment, on the other hand, attempts to address the problem by encouraging local school districts to implement uniform discipline policies while, at the same time, recodifying current IDEA law as it relates to the discipline policy.

I oppose these amendments because I do not believe that either amendment adequately addresses the problem of working toward a uniform discipline policy that allows school administrators to maintain discipline so that all children are offered the opportunity to learn and are not interrupted due to the actions of one child, while protecting the civil rights of children with disabilities to receive a free and appropriate education.

There is much work we need to do on this issue and I believe that we should develop balanced policies that can be part of the discussion and debate during the 2002 reauthorization of IDEA. We need to look for policies that help prevent children with discipline problems from unnecessarily being identified as in need of special education. We need to ensure that quality alternative educational settings are developed for those students who need alternative placements. And, most importantly, we need to fully fund IDEA so that children with disabilities receive appropriate treatment.

Mr. BAYH. Mr. President, I rise today to explain my vote against the Sessions amendment. I do believe that we need a more uniform standard of discipline for disabled students, however, I do not believe that it is prudent for the Senate to consider such an important policy matter in such a short amount of time. I share several of the Senator's concerns about the need to revisit the discipline language in the Individuals with Disabilities Education Act, but I do not believe the reauthorization bill for the Elementary and Secondary Education Act is the appropriate vehicle. The reauthorization of the Individuals with Disabilities Education Act is expected to be considered next year. I look forward to having a fuller debate on this complex issue at that time.

Mr. LIEBERMAN. Mr. President, I rise to give an explanation for votes that I made earlier today on the amendment offered by my colleague Senator SESSIONS and the second degree amendment offered by Senator HARKINS. I voted against these amendments because ultimately I believe that we should consider such proposals when the Senate debates the reauthorization of the Individuals with Disabilities Education Act, IDEA, next year.

I support the provisions in the Harkin amendment that would allow States and local education agencies to establish and implement uniform policies regarding discipline applicable to all children. This would allow school personnel to remove students from school for disruptive behavior, if such behavior is determined not to be a manifestation of the student's disability. The amendment further states that school districts must provide education services to such students in an alternative setting. Although I agree with my colleague that schools should strive to uphold such provisions, I believe there may be special exemptions to this, such as when a student poses a violent threat to educators and other students.

I share the concern raised by my colleague from Alabama and have voted in the past to reform discipline provisions to ensure safe and orderly learning environments. However, such an important issue deserves our full consideration and attention and I believe we should deal with this in the context of IDEA reauthorization so we can have a fuller debate and adopt a more comprehensive approach.

I look foward to working with both of my esteemed colleagues on these and other important elements of the IDEA when it is reauthorized next year.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. How much time remains on this side?

The PRESIDING OFFICER. The Senator has 8 minutes 42 seconds.

Mr. SESSIONS. I yield 3 minutes to the Senator from Virginia.

Mr. ALLEN. Mr. President, in response to some of the remarks by the Senator from Massachusetts, let me say this is not an issue about trying to deprive those students with disabilities of an education. This is an issue of standards of conduct. Oh, sure, the Federal Government does put some money into IDEA, but most of it does come from the taxpayers of the Commonwealth of Massachusetts, the Commonwealth of Virginia, and the State of Alabama. That is the whole issue of the Harkin-Hagel amendment in the first place. It has been an unfunded mandate.

To cite the comments and cast aspersions on my remarks, which were taken from a court decision—these individuals from Richmond City public schools, Fairfax County public schools, were under oath. Just because a General Accounting Office report doesn't refer to these situations doesn't mean they did not occur. Those individuals presented themselves before a court and swore under oath what happened. There are school records of it. They were subject to cross-examination.

For the Senator from Massachusetts to say these are just concocted, falsified stories, unfortunately is not an accurate statement. These are incidents that occur time after time.

The Senator from Alabama and I are not saying that disabled students cause trouble all the time. But it does happen, from students who are disabled

and students who have no disabilities —they cause problems in schools. We think the standards of conduct should be fair and equal in their treatment, with proper due process and equal protection. That is what the issue is, and no amount of unfair aspersions, raised voices, and histrionics can avoid the facts of what we are trying to do, to preserve local autonomy and safe schools as well as equal and fair treatment.

I yield whatever time I had.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the school system does treat differently students who bring drugs and guns to school. There is no doubt about that. I know Senator HARKIN feels strongly about this, and Senator KENNEDY does. Senator HARKIN and Senator KENNEDY opposed, when we had 74 votes on the juvenile bill, an amendment that simply said if you bring a gun to school, you can be treated as any other child for disciplinary purposes. That got 74 votes in this body. It is time to do something about this.

Do we not love children if we simply say a child who acts illegally, who abuses other children, who is sexually aggressive against girls in the classroom, even teachers, who curses teachers in the classroom—engaging in that activity, if it is not connected to their disability, should they be protected and given a special status, as they absolutely are here?

All this amendment says is, if a child has a disability, as Senator HARKIN used the example, a hearing disability, and that is connected to their misbehavior, then they cannot be denied services in the school. They can remain there, and they are entitled to a hearing even on whether or not they go to a special classroom.

We do not deny hearings. But we are simply saying it is time for the school principals and teachers to be given some respect. It is time for school students, as the 14-year-old about whom I read here, who said she can't respond but she is abused regularly—her glasses are knocked off. The girl told her she was going to kill her, and she was afraid to go to school. That child is getting no relief and cannot get it, it seems.

I believe we have a modest step forward in making progress. Unfortunately, the Harkin amendment undermines everything the amendment I have offered seeks to do.

It is return to the status quo. It is return to the Federal Government micromanaging school classrooms and discipline problems. It is not healthy for America.

All we are trying to do is exact some balance. The House passed a much stronger bill earlier last month with 246 votes. That vote did not provide the kinds of hearings that our bill does. I believe this is the right approach. It is time to respond to the educators.

Senator KENNEDY says the Federal Government is paying for this. We know the Federal Government is not paying for this. We know we are paying only a fraction of the cost. It is basically an unfunded Federal mandate on local schools in America. They are required to do all of these things.

Newsweek had an article on a student who was called ''the meanest kid in Alabama.'' He had an aide who went with him from the time he got on the schoolbus until the time he got to class, all through class, and then on the way home on the bus. One day he assaulted the schoolbus driver, and the aide, I think, tried to stop him.

Those are the kinds of problems we have created under this law that seems to be impossible to deal with. I think the Disabilities Act is a historic step forward. We want to keep every child in the regular classroom who can possibly be kept there.

I have visited schools in Alabama. I have seen schools with children in wheelchairs in the classroom. I have seen blind children in the classroom. I think that is wonderful. But if a child in a wheelchair sells dope, should they be treated differently from any other child who sells dope in school?

That is all we are saying. But even then that child would have to have a hearing, and the school would have to show that the action he was being disciplined for was not a result of the disability before he could be removed from the classroom.

This is a modest step forward to deal with a problem that is very real for teachers all over this country. If you go into their schools and talk to them, you will hear them talk about it. If you have friends who are teachers, ask them about it.

There are many actions in this legislation that are unfair and cannot be justified, in my opinion.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand there are 1½ minutes remaining.

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Mr. President, I ask the Senator from Virginia if he would please provide to my office these specific examples and the schools because I would like to take a look at those. I would like to look at them because, under the 1997 bill that we passed, if you bring a bomb or a gun or drugs to school, you are out. You are out. So I would like to ask publicly if the Senator from Virginia would provide those to my office so we can take a look at those to see why there is this disagreement. In the 1997 bill, which we passed 98–1 on the Senate floor, if you bring a bomb or drug or guns to school you are out.

I say to the Senator from Alabama that I realize he has good intentions. All of us want discipline in schools. I brought two kids through public schools. Of course, we want discipline in our public schools. None of us wants our teachers or busdrivers to be subject to violence by kids who may harm them or harm themselves. None of us wants that. We want safe schools.

That is why in the process of 26 years we have worked hard on a bipartisan basis in the Senate and in the House to fashion and change this legislation so that we meet the needs of those public schools. That is what the 1997 bill was all about. It is working. Let's not turn the clock back and segregate these kids as we did in the past. We have come too far for that. That is what the Sessions amendment does. It just segregates these kids.

Mr. SESSIONS. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute thirty-two seconds.

Mr. SESSIONS. Mr. President, the Harkin amendment does not do the job. I urge its defeat. It has the pretense of improving the law, but it does not in any way.

Under the amendment, the schools would not be free to set uniform discipline provisions for all students. The double standard that now exists would continue to exist. Our amendment does not completely remove the double standard, but it makes substantial progress after providing a hearing to that student to ensure they are treated fairly. Even if the bad behavior that a school seeks to address in the classroom has no relation to the child's disability, the school would be forced to keep that disruptive or even violent student in the classroom.

If a child, for example, were blind, and if there were an excellent blind school nearby, the Harkin amendment would deny the school and the parent the right to agree—it would take both of them agreeing—to accept the average daily allowance for that student and apply that to that school, if the parent wanted to make up the difference and get the kind of high-quality education that might not be available in that school.

I believe this is a concern for children. I believe it is compassionate in every way. It simply tries to give our beleaguered principals, teachers, and schools more options to deal with a very real problem.

I thank the Chair. I urge defeat of the amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 802.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. MILLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—36

Akaka	Dayton	Mikulski
Biden	Dodd	Murray
Boxer	Feingold	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Collins	Kohl	Stabenow
Corzine	Leahy	Torricelli
Daschle	Levin	Wellstone

NAYS—64

Allard	Ensign	McCain
Allen	Enzi	McConnell
Baucus	Feinstein	Miller
Bayh	Fitzgerald	Murkowski
Bennett	Frist	Nelson (FL)
Bingaman	Graham	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Schumer
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Clinton	Hutchinson	Smith (OR)
Cochran	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Johnson	Thompson
Crapo	Kyl	Thurmond
DeWine	Landrieu	Voinovich
Domenici	Lieberman	Warner
Dorgan	Lincoln	Wyden
Durbin	Lott	
Edwards	Lugar	

The amendment (No. 802) was rejected.

Mr. HATCH. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, yesterday during rollcall votes 185 and 186, I was necessarily absent to attend services in connection with the passing of Mrs. Barbara Bailey. Mrs. Bailey was the spouse of the late John Bailey, the legendary former chairman of both the Connecticut State Democratic Party and the Democratic National Committee. She was also the mother of Barbara Kennelly who represented the 1st Congressional District of Connecticut from 1983 through 1999. She was a remarkable woman and her passing saddens us all.

Had I been present for the votes, I would have voted as follows: On rollcall vote No. 185, the Domenici amendment as modified, I would have voted ''no.'' On rollcall vote No. 186, the Schumer amendment, I would have voted ''aye.''

AMENDMENT NO. 604, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes for debate to be followed by a vote on or in relation to the Sessions amendment.

Who yields time?

Mr. SESSIONS. Mr. President, we have a real problem in education today. It is a mandate that we know we do not fully fund. We are paying about 10 percent of the cost of IDEA. We ought to be paying 40 percent, according to our agreement. We have voted to increase that funding fully now.

The next thing we need to do is deal with the Federal regulations that are contained in this book that teachers and principals are having to deal with on a daily basis. Most of you have heard from your teachers and schools. You know the way we are administering the Disabilities Act does not work.

My amendment would simply say that a child, after a hearing where it is found that they are disruptive or perform an illegal or improper act in school that was not a product of their disability, would be treated, for disciplinary purposes, as any other child. That would mean that a child who sold dope, even though they may have a mobility disability, would be treated as any other child that sold drugs in a classroom. I think that is the right approach.

The House passed a bill much stronger which said flatout that any child, whether disabled or not, would be treated the same for disciplinary purposes.

This is a more modest step, but I believe a good step, in dealing with the problem that we are hearing about from all our teachers. I urge passage of the amendment.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Iowa.

Mr. HARKIN. Mr. President, I know that all Senators—I talked with them in the well—are concerned about discipline in classes. This Senator is no different. I put two kids in public schools. We are all concerned about discipline in the classroom. But the Sessions amendment is the wrong approach. To segregate kids with disabilities and take them out and put them in a separate setting is not the right thing to do.

The Sessions amendment would cease services to these kids with disabilities. That is not the right thing to do. There may be other things we can do to help provide for discipline in the classroom but not to segregate kids with disabilities. That is extreme.

Those of us who have lived in families with siblings who were disabled and watched them taken from our families and our communities and sent halfway across the State, segregated from their friends, do not want to go back to that. That is what the Sessions amendment does.

Mr. REID. Mr. President, I ask unanimous consent that the time set aside in the order entered last night from 1 to 2 for morning business be terminated. There will be no morning business if this unanimous consent agreement is agreed to. We want to move along with this bill. I have spoken to the people interested and they have been very courteous and have acknowledged it would be better to not do morning business then.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that Senators ALLEN, BOND, and VOINOVICH be listed as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Is all time yielded back?

Mr. SESSIONS. Yes.

Mr. HARKIN. Yes.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

All time having expired, the question is on agreeing to amendment No. 604, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—50

Allard	Fitzgerald	McConnell
Allen	Frist	Miller
Bennett	Gramm	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Carnahan	Hutchinson	Smith (OR)
Cochran	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Johnson	Thompson
Domenici	Kyl	Thurmond
Dorgan	Landrieu	Torricelli
Durbin	Lott	Voinovich
Ensign	Lugar	Warner
Enzi	McCain	

NAYS—50

Akaka	Dayton	Lincoln
Baucus	DeWine	Mikulski
Bayh	Dodd	Murray
Biden	Edwards	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Boxer	Feinstein	Reed
Brownback	Graham	Reid
Byrd	Harkin	Roberts
Cantwell	Hollings	Rockefeller
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Kennedy	Snowe
Clinton	Kerry	Specter
Collins	Kohl	Stabenow
Corzine	Leahy	Wellstone
Crapo	Levin	Wyden
Daschle	Lieberman	

The amendment (No. 604), as modified, was rejected.

Mr. REID. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. REID. Mr. President, it is my understanding the Senator from Alabama wishes to vote——

The PRESIDING OFFICER. The motion to table has been made and is not debatable.

Mr. REID. Mr. President, I ask unanimous consent to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. It is my understanding this amendment we just completed—it did not pass on a vote of 50–50. The Senator from Alabama wishes to vote on this again. With the consent of the Senator from Alabama and the Senator from Iowa, it would seem it would be in

everyone's interest that we would schedule a vote at a time certain on the motion to reconsider.

My unanimous consent request is it would be after the completion of the work on the amendment of the Senator from North Carolina, which is, according to the order we entered last night, the next to be debated.

In short, we will complete the debate on the Helms amendment, vote on that, and immediately go to a vote on the motion of the Senator from Alabama, with 1 minute on the side of the Senator from Alabama and 1 minute for the Senator from Iowa.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Is there a request before the Senate?

Mr. REID. Yes, there is.

Mr. BYRD. Reserving the right to object, I merely want to understand what the request is.

Mr. REID. I say to my friend from West Virginia, if this unanimous consent request is finalized, we are going to go ahead and complete the debate on the amendment offered by the Senator from North Carolina. Following a vote on that amendment, we would come back and vote again on the motion that was just made.

Mr. BYRD. Why is the Senate voting again on that motion?

Mr. REID. Because the Senator from Alabama wishes to have a vote, and the fact is, we have not tabled the motion to reconsider on the initial motion that I made, and the motion the Senator from California made to table.

We are trying to enter into this agreement. If that does not work, then the Senator from Alabama is going to suggest the absence of a quorum to try to figure a way to get out of that and in the meantime we will waste a lot of time around here.

Mr. BYRD. Is the motion to table before the Senate?

Mr. REID. It is before the Senate, but it has not been agreed to.

Mr. BYRD. Was there a vote in progress on that motion?

Mr. REID. No.

Mr. BYRD. There was not. So the Chair has not ruled on the motion to table. Therefore, the vote is still to be had, whether it be by voice, by division, or by rollcall.

Mr. REID. The Senator from West Virginia is, as usual, right.

Mr. BYRD. Mr. President, I have no objection to the request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, for Members of the Senate, then, we are going to now begin debate on the amendment of the Senator from North Carolina.

AMENDMENTS NOS. 574 AND 648

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Helms amendments Nos. 574 and 648.

The Senate will be in order. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks from my seat.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. Mr. President, I believe the pending business has already been announced by the Chair; is that correct?

The PRESIDING OFFICER. If the Senator will restate the question, please.

Mr. HELMS. Is it my understanding that the amendment became the pending business by unanimous consent? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair.

As the largest and most universally acclaimed youth-serving organization in the world, the Boy Scouts of America has led millions of young boys to respect and abide by the fundamental virtues of duty to God and respect for individual beliefs, loyalty to their country and respect for their country's law, service to others, voluntarism, training of boys in responsible citizenship, in physical and mental development, and in character development.

This came about early in the last century. It was a curious turn of events that brought Scouting to America in the year 1910.

The year before, in 1909, a Chicago publisher, William D. Boyce, had been traveling in Europe.

Mrs. BOXER. Mr. President, may I ask my friend to yield for a moment. It is very difficult to hear the Senator. Would you be willing to hold your microphone because it is very difficult for us to hear your presentation.

Mr. HELMS. I am delighted. I didn't know anyone wanted to listen to it.

Mrs. BOXER. Senator MURRAY and I are hanging on your every word and we want to hear.

Mr. HELMS. Does the Chair suggest I start over?

The PRESIDING OFFICER. If the Senator would like.

Mr. HELMS. It was a curious turn of events that brought Scouting to America in 1910. The year before that, in 1909, a Chicago publisher, William D. Boyce, had been traveling in Europe and got lost in a dense fog while he was in London. It was a Scout—not by that name but a Scout—who came to Boyce's aid and guided him through the fog to his hotel. Afterwards, the boy refused a tip from Mr. Boyce explaining that as a Scout, he would not and could not take a tip for doing a good turn.

Since that time, almost a century has elapsed, and the character and the reputation and the admiration that people have for the Boy Scouts of America has intensified year after year.

Last June, a year ago, the Supreme Court found it essential to uphold constitutional rights of Boy Scouts of America, oddly enough, to abide by and practice the Boy Scout moral guidelines for membership and leadership, including no obligation to accept homosexuals as Boy Scout members or leaders.

Yet in spite of the Supreme Court's landmark decision, radical militants continue to attack this respectable organization—the Boy Scouts of America.

Specifically, these militants are pressuring school districts across the country to exclude the Boy Scouts of America from federally funded public school facilities based on what they did in one instance. They decided to press for exclusion of the Boy Scouts from the schools because the Boy Scouts would not agree to surrender their first amendment rights and because they would not accept the agenda of the radical left.

I asked the Congressional Research Service, among others, to inform me as to how many school districts have already taken such hostile action against the Boy Scouts. The Congressional Research Service reported to me that at that time at least nine school districts were known to have attacked the Boy Scouts of America, and, in the majority of the cases, they had done so in outright rejection of the Supreme Court's ruling protecting the Boy Scouts' rights, which is now the law of the land.

Which is precisely why I again decided to offer the amendment entitled ''The Boy Scouts of America Equal Access Act.'' This pending amendment—which unanimously passed the House of Representatives—would for once and for all put a complete end to the arrogant treatment being directed by various school districts across this Nation at the Boy Scouts of America,

Specifically, the pending amendment stipulates that if a public elementary school, or a public secondary school, discriminates against the Boy Scouts of America—or any other youth group similar to the Boy Scouts—in providing equal access to school facilities, then that school will be in jeopardy of losing its Federal funds.

Now, before opponents work themselves into a frenzy, it may be well to make clear on exactly how this proposed amendment would work: it stipulates that the Office of Civil Rights within the Department of Education be given statutory authority to investigate any discriminatory action taken by school authorities against the Boy Scouts of America.

The Office of Civil Rights was established to handle discrimination problems that occur within the public school system. My amendment would direct the Office of Civil Rights to handle cases of discrimination against the Boy Scouts precisely the same as the Department of Education currently handles other cases of discrimination—barred by Federal law and which may result in termination of Federal funds.

It should be noted, Mr. President, that according to CRS, ''historically, the fund termination sanction has been infrequently exercised—by the Office of Civil Rights—and most cases are settled at . . . the investigative process . . .''. In other words, when the Office of Civil Rights warns a school to get its act together, the school usually listens.

Therefore, it is not likely that any school will be in fact ever that its funding eliminated; unless it adamantly refuses to provide the Boy Scouts of America equal access to school facilities.

It will not be handled willy-nilly. It will be based on specific evidence.

Needless to say, I do hope that the Senate will uphold the constitutional rights of the Boy Scouts of America to have equal access to school facilities.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi, the Republican leader.

Mr. LOTT. Mr. President, I thank the manager in opposition to this amendment for allowing me to go ahead and speak now. Ordinarily, we make a real point to go back and forth. So I appreciate that. I will be brief and to the point.

I rise in support of this amendment. I think it is an amendment that should basically be accepted by all of us. I don't know quite how to react to the fact that in America even the Boy Scouts seem to be under attack. Is motherhood and apple pie next? Is there nothing sacred anymore?

I don't have a conflict of interest. I came from such a small, rural, poor area that we didn't even have a Boy Scout troop. I was a Cub Scout. Somehow or other we managed to have a Cub Scout troop. I enjoyed that. I never got to be a Weeblo or a Boy Scout. I missed it.

I have been very supportive of the Boy Scouts, and I have attended Eagle Scout ceremonies. I have been to Boy Scouts events that recognized great Americans who started off as Scouts—such as Jerry Ford when he got a special recognition.

It is not as if I am defending something from which I directly benefited. But, quite frankly, I think we all benefit from organizations such as the Boy Scouts. Their fundamental principles are rooted in basic good things such as duty to God and respect for individual beliefs, loyalty to one's country and respect for its laws, service to others, voluntarism, and training of youth in responsible citizenship, in physical and mental development, and in character advancement.

These are all such fine goals. I have watched this organization transform young men's lives, as the Girl Scouts with girls. They have given them an opportunity to help themselves, to support causes bigger than themselves as the saying goes now, and to improve their community by involvement.

I think in no way should we diminish the importance of that, or take away what they do for boys and girls of all races and ethnic and religious backgrounds.

Now what does this amendment do? The title is the Boy Scouts of America Equal Access Act. It sounds good to me. I assume there are going to be those who say this is something we shouldn't do or it gives them some advantage. But all it says is that if a public elementary school or public secondary school has a designated open forum, then that school cannot discriminate against the Boy Scouts of America or any youth group on the basis of its membership or leadership criteria or on the basis of its oath of allegiance to God and country.

If a public school did discriminate against the Boy Scouts of America, then that school would be in jeopardy of losing its Federal education funds.

I know the Supreme Court rendered a decision recently saying a religious group could have time and access to space at a school if all other groups have access. You do not have to attend, but if you are going to have an open policy, then you have to let everybody have an opportunity to have access to the space in the school. This is a very meritorious and I think very defensible position to have.

The Boy Scouts have become the largest voluntary youth movement in the world with a worldwide membership totaling more than 25 million. Over 6 million of those participants come from the United States alone.

There have been a series of decisions in the courts that I think relate to this. The U.S. Supreme Court held in Boy Scouts v. Dale that the Boy Scouts are a private organization and, as such, they can decide who can be in their organization if they wish.

There was a decision recently involving the Boy Scouts in the U.S. district court in Florida which said that Broward County could not evict Scouts off school property.

So there are decisions at the district court level and from the Supreme Court affecting this. But of the attacks on the Boy Scouts, some people would say it is no real problem. It is having an impact. Based on the Boy Scouts' stand on their principles, eight of the United Way agencies nationwide have withdrawn their financial support from the Boy Scouts of America. We have seen that there have been some 359 school districts which have severed sponsorships with the Scouts since last June's ruling.

So it is affecting the Boy Scouts in terms of financial support, and it is affecting them in that schools are beginning to prohibit Boy Scouts from being able to have sponsorships and meet in their schools.

So clearly it is having an effect. We have reached the point now where when a Boy Scout troop comes out—four or five boys; or girls who are Girl Scouts—they get booed because they are there during the Pledge of Allegiance. Surely, we cannot reach that kind of ugliness in America.

So I think it is very important that we have this amendment added. It would require that public schools treat the Boy Scouts of America exactly the same as they do all other groups meeting in the schools; that is all. Surely, the least we can do is to allow them to have equal access.

So while there may be some wringing of hands and assertions of what this amendment does way beyond what it does, or its intent, they just want to be treated the same as everybody else—nothing more, nothing less.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I do want to be heard on this issue. But in fairness to the other side, I would like to defer so long as I can follow the Senator, in this order, because of a timing problem.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Perhaps I could make a quick unanimous consent request. I am going to speak for 2 minutes and then ask Senator MURRAY if she would really open the debate with about—how many minutes does the Senator need?

Mrs. MURRAY. Ten minutes.

Mrs. BOXER. And then go to Senator INHOFE.

Is that acceptable?

Mr. INHOFE. That would be fine.

Mrs. BOXER. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. Mr. President, I thank the Republican leader for making his remarks concise. I do really appreciate the opportunity given to me by Senator KENNEDY to manage the opposition to this amendment. The reason I feel very strongly about it is that this amendment is not about the Boy Scouts. My kids were Scouts. I will never forget that. They are really old now. I am a grandmother now. But I remember when they were in their uniforms. My kids were Scouts.

This amendment is not about Scouts because the Supreme Court has already ruled that the Boy Scouts have the absolute right to take their programs into the public schools. That issue has been resolved.

So I believe—and I am going to reserve my time, and I will explain why I have reached this conclusion—that this amendment is unnecessary; that it is gratuitous. It is hurtful to a group of people. It divides us again as a country. It brings in this Chamber an issue that divides us, that hurts people, and I believe—and Senator MURRAY is going to

speak to us as a former school board member with a tremendous amount of authority on this—it is a slap at local control, something my friends on the other side of the aisle revere.

So I hope in the course of this debate—and I know we go uphill when this comes up—we face the facts of what this is about. I hope, in the course of debate, people will look inside their hearts to decide what this amendment is really about. It is not about the Boy Scouts having the ability to meet in public schools. That has been determined. It is about hurting a whole group of people, a minority in this country, for absolutely no good reason.

I hope people will have the courage to come to this Chamber, to speak out, to be heard, to lift up this debate, and that we will have a good vote against this amendment.

Mr. President, I yield 10 minutes to my friend and colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from California for yielding me time.

Mr. President, I believe that Scouting—whether it is the Boy Scouts or Girl Scouts—really can help kids develop their character and build important skills. And that is important. In fact, Scouting has been an important part of my life and my own children's lives.

I was a Brownie. I was a Junior Girl Scout. I was a Girl Scout. I was a Brownie Leader. I was a Girl Scout Leader. And, in fact, I was even a Boy Scout Leader for my son's troop. So I know about Scouting. This amendment is not about scouting.

This amendment is about imposing a Federal mandate on local schools that could essentially overwhelm their facilities and strain their ability to meet their first responsibility, which I believe we all understand is to educate our students.

The Helms amendment essentially takes a problem that does not exist and uses it to dictate the decisions that local school boards make.

There are several problems with this amendment, but first and foremost, it really is not needed, as the Senator from California said. Right now, under Federal law, Scouts receive the same protection and access as any other group—nothing more, nothing less—and that is the way it should be. And that is not just my opinion; it is our Federal law, known as the Equal Access Act.

Let me read to you part of that statute. It says:

> It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny access for a fair opportunity to, or [to] discriminate against, any students wishing to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical or other content of the speech at such meetings.

That is the law right now—on the books in black and white. So this amendment is unnecessary because current Federal law already requires equal access. Not only do groups such as the Boy Scouts already have access under Federal law, the courts are reaffirming that access.

In fact, just this last Monday, the U.S. Supreme Court ruled that a New York State school had to let a religious organization use its facilities since it was already allowing nonreligious organizations to do the same thing.

Mr. President, I ask unanimous consent to have a Washington Post article which explains this ruling printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. MURRAY. Equal access is already in the law. It was just upheld by the U.S. Supreme Court. Groups such as Scouts have equal access. Therefore, this amendment is not about the question of equal access. This amendment, however, is about special access. Frankly, we ought to call this proposal the ''unequal access amendment'' because it selects one group over all others for special protection.

There is a second problem with the amendment. I served on a local school board. I know what it is to have limited meeting space in a school and to have organizations that want to use that space who come before you and beg and plead for that ability. Right now schools make those decisions based on their own circumstances within the law. Schools might not have enough space. They might not have the budget for the extra cleanup required for groups to use these facilities or additional groups to use them. They might not have the staff to lock up the building after hours. Teachers might not have the time in the schoolday to rearrange their classrooms. Maybe there are only a few rooms available after school and they are already needed for other things such as tutoring or they have already been given to another group. There might be insurance or liability concerns.

Because of all those variables that local school boards have to live with on a weekly basis, those decisions are made at the local level. Sometimes those local policies keep schools from having to pick one group over the other, from picking winners or losers.

The Helms amendment would overrule all of those local policies, all of those local decisions, and pick one winner and require every school to accommodate them or risk losing their Federal funding.

Scouts already have the same protections as similar organizations, and local schools already make good legal decisions based on those circumstances.

Before I close, I note that I am eager to see how some of my colleagues vote on this amendment which, as I have noted, is not about Scouting. It is about forcing decisions on local schools. In recent years some of my colleagues have spoken at great length about the importance of local control in educational decisions. Of course, having served on a local school board, I reminded them that most decisions are made at the local level and that there is a limited Federal role for efforts such as helping disadvantaged students and reaching national educational goals. Frankly, I do not see how setting up a special national privilege for just one organization falls in that role.

Recently on the Senate floor my amendment to reduce school overcrowding was defeated on a party-line vote. Opponents on the other side said those decisions should be made at the local level. They ignored the fact that funding was optional and flexible, meaning it could be used for class size reduction or teacher training or recruitment. Opponents of my amendment said local control was more important than an effective, targeted, flexible initiative.

Now we get to see if all those Members will stand up to the principles they have advocated. This Helms amendment is far more intrusive. It is not optional. Unlike my amendment, the Helms amendment has nothing to do with schoolday learning. It is definitely a Federal mandate on local schools. It definitely takes decisions out of local hands. Frankly, I do not see how anyone who has called for more local control will support this Helms amendment. This vote will be very telling.

The Helms amendment addresses a problem that does not exist. Groups such as the Scouts already have equal access through existing law. Instead, this intrusive amendment provides special, unequal access for just one group and overrules what is happening at the local level.

I will share with my colleagues how frustrating and difficult it can be, as a school board member, to make decisions about who can use your facilities. I have been in front of many parents who were unhappy with decisions that school boards have made. This Helms amendment may well force a school board to tell a group, perhaps a church group that is already using their gym, that because of the Helms amendment and fear of a lawsuit, if they don't change their mind, we will have to override facilities use by that group. This amendment may well force a school to tell another group that because of our Federal law, the Boy Scouts come in first.

I care about Scouting. I want our Scouts to have facilities. I want it to be under equal access, not special protection. That is what the Helms amendment does.

I thank my colleague from California and yield back my time to her.

EXHIBIT 1

[From the Washington Post, June 1, 2001]

JUSTICES BACK BIBLE GROUP

ACCESS TO SCHOOL FACILITIES WIDENED

(By Charles Lane)

The Supreme Court ruled yesterday that a New York state school may not prohibit an evangelical Christian children's club from meeting on its premises, a decision that may have cleared the last legal obstacles to religious groups' long-sought goal of having the same access to school facilities as other organizations.

By a vote of 6 to 3, the court held that the Milford Central School's effort to deny the after-school use of its building to the Good News Club, but not to other, nonreligious groups, was a form of discrimination on the basis of religious viewpoint, and thus violated the constitutional guarantee of free speech.

The Good News Club, which operates thousands of chapters around the country, urges children as young as 6 to accept Jesus Christ as a personal savior. The school argued that, in barring the club from meeting there, it was following a New York law designed to avert any appearance of official sponsorship of religious worship and to protect children from getting the impression that the school endorses a particular religion.

But the court rejected the notion that the club's use of the school would create a kind of pro-religious pressure on children, noting that children could not attend the club's meetings unless their parents approved.

''[W]e cannot say the danger the children would misperceive the endorsement of religion is any greater than the danger that they would perceive a hostility toward the religious viewpoint if the Club were excluded,'' Justice Clarence Thomas said in the opinion he wrote for the court.

Conservative legal scholars noted that the case fits into a recent trend in which the court has adopted a more accommodating position toward religion in public places when it believes that it is merely maintaining a fair balance between religious and secular activity. That could mean future support for President Bush's ''faith-based'' social services initiative, or for school vouchers, they said.

''It will be much harder for anyone to argue that a faith-based organization's social service treatment program has crossed a line, becoming, in essence, 'too religious,' '' said Douglas Kmiec, dean of the Catholic University law school.

But Barry Lynn, executive director of Americans United for Separation of Church and State, said the decision maintains a distinction between state support for religious instruction and extracurricular religious activity, and therefore ''has no spillover into the voucher area.''

Of the 4,622 Good News Club chapters around the country, about 527 meet regularly in public school buildings. Supporters of the group said the ruling gives a significant boost to the club and others like it.

''It's no secret that it helps them attract children when they meet in a more convenient location,'' said Gregory S. Baylor of Annandale-based Religious Liberty Advocates, which filed a friend of the court brief on behalf of Good News's parent organization, the Child Evangelism Fellowship Inc. ''Prior to this, a lot of school districts were nervous about letting them in. Now I can say, 'Read the Supreme Court case.' ''

Opponents agree with this forecast, but they said it shows how the court has titled the church-state balance in favor of religion.

''This is really religious worship directed at young children,'' said Jeffrey R. Babbin, an attorney who filed a friend of the court brief on behalf of the Anti-Defamation League of B'nai B'rith, which backed the school. ''Our concern is that what can't be done in school shouldn't be done right after. Often kids can't go home right after school.''

The case began in 1996 when two parents, the Rev. Stephen D. Fournier and his wife, Darleen, sought to move the meetings of their Good News Club chapter from a local church to Milford's only school building, which houses all classes from kindergarten through 12th grade.

School authorities in the 3,000-resident rural community refused, saying that the Good News Club was not simply a discussion group that talked about morals from a religious viewpoint, but a form of religious instruction.

The Good News Club's sponsoring organization, the Child Evangelism Fellowship, based in Warrenton, Mo., says that its purpose is to ''evangelize boys and girls with the Gospel of the Lord Jesus Christ and to establish (disciple) them in the Word of God and in a local church for Christian living.''

Good News Club meetings revolve around prayer, songs, stories and games drawn from the Bible, and some of the children attending are ''challenged'' to declare Jesus Christ as their savior.

The Fourniers sued in federal court. The New York-based appeals court sided with the school, but because its ruling clashed with a St. Louis-based appeals court's decision in favor of access for another Good News Club, the Supreme Court agreed last year to decide the dispute.

In the court opinion yesterday, Thomas said that this case was essentially no different from previous ones in which the court had upheld the right of a Christian parents' group to show a film at a public high school in the evening and of Christian students at the University of Virginia to receive the same funding for their publication as other groups.

When the state operates a ''limited public forum'' in which citizens may express their views, Thomas wrote, ''speech discussing otherwise permissible subjects cannot be excluded . . . on the ground that the subject is discussed from a religious viewpoint.''

Thomas was joined by the court's other conservative-leaning members—Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor, Antonin Scalia and Anthony M. Kennedy. He also picked up the vote of Justice Stephen G. Breyer, a liberal, who wrote a separate opinion to emphasize that he supported the club's position only insofar as it was asking for nondiscrimination by the school. He said important issues remained to be examined, especially whether a reasonable child might indeed see the club's presence at the school as an endorsement of religion.

Justices John Paul Stevens, David H. Souter and Ruth Bader Ginsburg dissented.

''It is beyond question that Good News intends to use the public school premises not for the mere discussion of a subject from a particular, Christian point of view, but for an evangelical service of worship calling children to commit themselves in an act of Christian conversion,'' Souter wrote.

The case is Good News Club v. Milford Central School, No. 99–2036.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I know the distinguished Senator from Washington is very sincere in her remarks, but I believe there is a problem in insisting that we are legislating on a situation that doesn't exist. I will point out examples of that.

When Senator HELMS first started, his microphone wasn't quite on high enough and we were not able to hear his remarks. I will repeat the first couple of things he said. He talked about the Boy Scout movement in our Nation as being part of the largest voluntary youth movement in the world, with U.S. membership totaling over 6 million. He also mentioned the three basic fundamental principles.

The fundamental principles of the Boy Scouts include, one, a duty to God and respect for individual beliefs; two, loyalty to country and respect for the laws of the land, service to others, and a spirit of voluntarism; and, three, the training of youth in responsible citizenship, physical and mental development, and character advancement.

As a private organization, the Boy Scouts of America has the right to select persons it believes will provide the leadership that measures up to the high caliber of standards of this fine institution. Boy Scouts and other similar groups have a constitutional right to associate freely, and our publicly funded schools should not inhibit that right of access to public school facilities.

Not only is this my opinion; it has been found to be the law of the land by the Supreme Court. In June of last year—this has been alluded to—in Boy Scouts of America v. Dale, the Supreme Court ruled that Boy Scouts have the constitutional right to specifically exclude homosexual members and leaders. The Helms amendment was prompted by the denial of public school access to groups such as the Boy Scouts even after this Supreme Court decision.

For example, the Broward County school board voted to keep Boy Scouts from using public schools to hold meetings, in direct violation of the Supreme Court's decision. Luckily, in the Boy Scouts v. School Board of Broward County, in March of this year, the U.S. district court in Florida issued an injunction to block the county's attempt to evict the Scouts from public school property.

Unfortunately, this is not an isolated case. This is why I make the point that there is a problem out there. The Congressional Research Service, which Senator HELMS alluded to, has reported that at least nine school districts have publicly attacked Boy Scouts, which is in direct contradiction of the ruling of the Supreme Court.

Let me give a couple examples of this. In Chapel Hill, NC, the Chapel Hill-Carrboro school board voted, on January 11, 2001, to give Scouts until June to either go against the rules of their organization or lose their sponsorship and meeting places in schools. In New York City, the New York City school chancellor, Harold Levy, said the school system would not enter into any new contracts with the Boy Scouts of America. This is something that happened after that Supreme Court decision. The Los Angeles City Council has ''directed all of the city's departments to review contracts with Boy

Scouts and order an audit of those contracts to ensure compliance with a nondiscrimination clause.''

In Madison, WI, it is the same thing. It goes on and on—quite a lengthy list.

The repetitive, hostile actions taken against the Boy Scouts are inexcusable and against the law and should be stopped immediately.

The Helms amendment reinforces the constitutional rights of Boy Scouts and the Supreme Court decision upholding those rights. This amendment states that if a public school has designated ''open forum,'' then the school cannot discriminate against Boy Scouts of America or any youth group on the basis of its membership or leadership criteria or on the basis of its oath of allegiance to God and country.

The oversight provisions of the amendment ensure that the Office of Civil Rights within the Department of Education will protect the Boy Scouts as it protects other groups that have been or are discriminated against. We are talking about antidiscrimination in this amendment.

The amendment proposes that any public school receiving Federal funding from the Department of Education must allow the Boy Scouts or other similar youth groups equivalent access to school facilities and must not discriminate against these groups by requiring them to admit homosexuals as members or leaders or any other individuals who reject the Boy Scout oath of allegiance to God and country.

So I just submit that I disagree, and it is an honest disagreement with the Senator from Washington. There is a problem, and it is necessary to legislate against this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I will propose a unanimous consent request for the order of speakers.

I ask unanimous consent that Senator DURBIN have 10 minutes, and that on our side Senator ENZI have up to 15 minutes. Then if somebody comes on that side to speak, I propose that there be a Democratic speaker. But if they are not here, I ask that Senator SMITH have up to 10 minutes, and then a Democrat speaker, and then Senator BROWNBACK have 10 minutes.

Mr. BYRD. Mr. President, reserving the right to object, I have a question I would like to ask at some point to propound about the language of this amendment. When might I do that?

Mr. BROWNBACK. I propose that we have an order of speakers and——

Mr. REID. Mr. President, if I may be heard on this.

Mr. BROWNBACK. I yield to the Senator from Nevada.

Mr. REID. I say to the Senator from West Virginia, it appears with all these speakers that have been lined up, it would be sensible, as far as I am concerned, that a question be asked before the speeches are given, not after.

It is my understanding that the Senator from West Virginia simply wants to ask a question for someone to answer during the discussion of this amendment; is that right?

Mr. BYRD. The Senator is correct.

Mr. REID. I hope that the Senator from West Virginia can be recognized immediately to ask his question. Is there any objection to the Senator asking his question?

Mr. BROWNBACK. There would be no objection on my part if the Senator from Illinois is OK with that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the majority whip and all Senators. I wish to get a clarification of a definition. I think it is well that I pose this question now.

I don't intend to go into the background at this point, except to say that I have been concerned about some of the things that have been said and some of the actions that have been taken with respect to Boy Scouts. I was very disappointed when at the Democratic Convention there was a demonstration—not by all Democrats by any means, and I feel sure it wasn't a part of the convention plans. But I was embarrassed at the boos and the disrespect shown by some of the participants at that convention, which I did not attend; I was watching television. I have been concerned about other hostile actions that have since been directed at the Boy Scouts of America.

Certainly, my intention up to this moment has been to vote for this amendment. I do have a question, however. The question deals with definitions. I would like a better definition or clarification of the term ''youth group.'' In paragraph 2 of section 2(a), I read the following:

> . . . denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group . . .

I will repeat that: ''. . . or any other youth group.''

> . . . that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibits the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country, as members or leaders.

My problem with that is ''youth group'' could include skinheads, and it could include Ku Klux Klan youth groups or any other ''hate'' groups. That is what I am concerned about.

I know what we are talking about—the Boy Scouts. That is one thing. But I hesitate to open the language up to just any ''youth'' group. That is my problem. I would like for someone to clarify the definition of ''youth group'', or perhaps offer a modification so that we will all know what we are talking about.

Mr. BROWNBACK. If the Senator will yield for a response to that.

Mr. BYRD. I am glad to.

Mr. BROWNBACK. We are working with the primary sponsor of the amendment to get a further definition and clarity on that so that we can directly respond to the appropriate question of the Senator from West Virginia. We will do that as soon as possible.

Mr. BYRD. I appreciate that. I have discussed this with the sponsor, Mr. HELMS, and two of his staff members.

Mr. SMITH of Oregon. If the manager will yield, I join the Senator from West Virginia in asking for a clarification because I think it is very important that we know what we are talking about.

I am here standing for the proposition that tolerance is a two-way street; that we should tolerate the gays and lesbians in our community, but we should also tolerate the Boy Scouts in our community.

Clearly, there are some groups that have national charters that this Government recognizes, such as the Boy Scouts, and there are groups that do not. That kind of a distinction perhaps ought to be made because I think we all want to be voting for the right thing. There are some groups, such as the skinheads, that I don't want to be voting for today. I thank the Senator from West Virginia for his question.

The PRESIDING OFFICER. The Senator's time has been consumed.

Mr. BYRD. I ask unanimous consent to proceed for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the terminology which I read here includes this excerpt:

> . . . The Boy Scouts' or the youth group's oath of allegiance to God and country . . .

Mr. President, as a former member of the Ku Klux Klan—and this is no secret to anybody; it has been known to the people of this country for at least 50 years, so I am not telling anything new. But there is no doubt that that organization purports to swear allegiance to God and country.

I do not want to open this up to just any group—just any group that swears allegiance to God and country. That is why I raise the question. I think there must be a clarification of this. At least I am going to be on record by what I am saying here, that I am not, regardless of how I vote on this amendment—I hope this can be clarified, and I hope there can be some modification of the language.

On the record, I am not supportive of letting just any ''youth group'' come under the canopy of the definition of that term.

Mrs. BOXER. Will my friend yield to me for just a moment?

Mr. BYRD. If I have time.

Mrs. BOXER. I ask unanimous consent that the Senator be given 60 seconds additional time so I may engage him.

The PRESIDING OFFICER. (Ms. CANTWELL). Without objection, it is so ordered.

Mrs. BOXER. Senator DURBIN is anxious to be heard. I thank my friend.

This amendment is troubling, and the Senator from West Virginia has put his finger on a very serious problem with this. What if a group springs up—I am just going to use a name—the Timothy McVeigh Youth Group and has in its charter antihomosexual language. It is my understanding, after checking with attorneys, in fact, they would be given special privileges because they have an antihomosexual charter.

My friend has raised a very important issue, and I thank him for it.

Mr. BYRD. I thank the Senator. I prefer to use the Ku Klux Klan. We know what we are talking about there. If one wishes to look at the oath—I will say the oath of the Ku Klux Klan, and there are associate groups and affiliated groups. Women used to be in the Klan; maybe young people. I do not recall.

When it comes to patriotism, to God, to country, the words of that organization are superlative in that respect. How closely the actions followed the words is something else.

This language needs to be clarified. It needs to be modified. I do want to support the amendment. I am speaking only as a Senator from West Virginia. That is the way I see it. I hope there will be some modification of that language.

Mr. BROWNBACK. Madam President, I renew my unanimous consent request that I put forward. I ask that the Democrats who are in turn speaking will not speak for more than 15 minutes in the unanimous consent request I put forward.

Mr. REID. Reserving the right to object, Mr. President, I do know the names the Senator talked about. We should cut it off there. This could go through the entire afternoon. Those names you mentioned be the only ones.

Mr. BROWNBACK. I am not prepared to enter into a time agreement.

Mr. REID. That is my question. I am saying I am happy to agree to the times as you set forth, and the names you have mentioned, but after that, we will just have jump ball here.

Mrs. BOXER. No problem. Madam President, I can now say, after Senator DURBIN, Senator WELLSTONE will follow. That is our list at this time.

Mr. WARNER. Reserving the right to object, do I understand there is time available on our side?

Mr. BROWNBACK. Yes, there is.

Mr. WARNER. Is it restricted to this amendment?

Mr. BROWNBACK. We are attempting to restrict it.

Mr. WARNER. A gentleman's and gentlewoman's understanding.

Mr. BROWNBACK. That is correct.

Mr. WARNER. I have an amendment pending at the desk that I want to withdraw and need about 12 minutes to address the reason for which I am withdrawing it.

Mr. BROWNBACK. Can the Senator do it afterwards?

Mr. WARNER. I will be delighted to do it after, if the Senator will be kind enough and indicate in the unanimous consent request for me to do that.

Mr. REID. That is the question: After what? We have a couple amendments pending on which we are going to be voting. That will probably take a while. The Senator may have to wait several hours.

Mr. WARNER. Mr. President, I certainly will be delighted to do that so long as I, hopefully, can have some assurance for not more than 10 minutes during the course of the day. I thank the Chair.

The PRESIDING OFFICER. Without objection, the previous order is modified. Under the previous unanimous consent order, the Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair. Madam President, I am opposed to discrimination—discrimination based on race, creed, color, gender, or sexual orientation. I am sorry that the Boy Scouts of America, which were an important part of my youth, an important part of my family, have now become a symbol that is being debated in the Chamber of the Senate. I am sorry this organization that has meant so much to so many is now being trivialized or symbolized by this debate. But it is a fact, and it is a fact that the amendment that has been offered by Senator HELMS raises many questions.

I do not think the question is whether or not Boy Scout chapters have access to public schools. As the Senator from Washington said, that is not even debatable. The Supreme Court has ruled on that as late as this week. They had a specific ruling saying that no school district can keep any Boy Scout troop out of a public school. They have access. This amendment is not necessary. It is already the law of the land.

The amendment by Senator HELMS goes further. The amendment by Senator HELMS says that no school district can discriminate against a youth group that also says homosexuals may not belong.

This raises some serious problems because there are school districts in States across America, including the State of Illinois, which have a statement of policy, and they say: We will not let any groups be sponsored by our schools if they discriminate on the basis of race, creed, color, gender, or sexual orientation. It is just a school policy. You want your school group to be sponsored by the school? No way if they discriminate.

I would imagine those statements of policy were passed at school board meetings without a dissenting vote. Who is going to vote against that: That you would want a school district sponsoring a group that discriminates? Yet what Senator HELMS says in his amendment is that if your school district sticks with that policy of nondiscrimination in sponsorship, you lose your Federal funds.

What does that mean to the school district of the city of Chicago? Hundreds of millions of dollars coming in to help kids. With the Helms amendment, it is gone. It is not just Chicago. Many other States are also affected.

This amendment, which may have been offered as a tribute to the Boy Scouts or for whatever reason, has become much more. This has gone way beyond the Boy Scouts, I say to my colleagues in the Senate. What this amendment is trying to do is, frankly, create an environment which is antithetical, antagonistic to the beliefs of many school districts which have basically said: We will not sponsor organizations that discriminate. Yes, we may be forced to bring some in to have access to our schools, but we are not going to sponsor them.

According to Senator HELMS, if you do not sponsor them, it is discrimination. If it is discrimination, guess what. You lose your Federal funds.

Let me go to the point raised by Senator BYRD from West Virginia. Senator BYRD touched on an important point. He talked about what kinds of youth groups we are discussing. Senators started using hypothetical groups: What about skinheads, this group, that group, that happen to have some awful beliefs but also happen to discriminate against those of a different sexual orientation? As I read the Helms amendment, the school not only has to open the door to have access to use the school, but they also have to be willing to sponsor the group, and if they do not sponsor that group and others such as it, then they run the risk of losing their Federal funds.

Is this a farfetched idea that a group such as that might arise? I wish it was. I will tell my colleagues about my own home State of Illinois. Have you ever heard of the World Church of the Creator? Mr. President, I remind my colleagues, they did hear about it in the news not long ago.

This is a white supremacist organization that advocates openly the murder of Jewish individuals and people of color. It has what it calls ''holy books,'' ''ministers,'' and religious ceremonies all grounded in their ''religion'' of white supremacy.

Do my colleagues know when they heard about them? They heard about them in July of 1999. A young man named Benjamin Smith went on a shooting rampage throughout Springfield, IL, Urbana, Decatur, Skokie, Chicago, and Northbrook. He wounded nine and murdered Won-Joon Yoon, a doctoral student at Indiana University, and he killed Ricky Birdsong, an African American, the former Northwestern University basketball coach.

Mr. Smith wounded and killed these individuals because he hated those who were different from him and because his religion, the World Church of the Creator, supported taking violent action against them.

If the World Church of the Creator approached a school in Illinois and asked that school sponsor their youth group, under the Helms amendment, if

they said no, they would lose their Federal funds. Why? Because the World Church of the Creator also has a very clear policy when it comes to homosexuals. The World Church of the Creator does not allow homosexuals in the membership or in their leadership.

Think of the situation we are creating. Imagine serving on a school board with no pay under these circumstances. Senator HELMS, in trying to pay a tribute to the Boy Scouts, has opened the door wide for mischief from every crazy group in America that wants to not only use school premises but be sponsored by schools. If they don't go along, guess what. They get either a lawsuit or the loss of Federal funds.

I consider this amendment a complete disaster. It is a disaster when one considers the impact it has on schools across America that are trying to live under the four corners of the law. The Supreme Court has said open your doors for access, but the Supreme Court doesn't say a school has to sponsor the group, provide the schoolbus, make sure they have some sort of special treatment within the school, give them a page in the yearbook.

Do we want the World Church of the Creator to have a page in the yearbook of your child's high school? I certainly don't. I am embarrassed that this organization calls Illinois home. In an open and free society, these things are allowed to exist, but they are not in a situation where they ought to receive special treatment, which Senator HELMS wants to give them under this amendment.

I urge all of my colleagues on both sides of the aisle, take time to read this carefully. This is not as simple as it sounds. The language Senator HELMS has put in this bill will create nothing but trouble for school districts across America which will now be forced to face impossible decisions as these hate-filled groups come in, one after the other, asking for special treatment.

Join me in voting no against the Helms amendment.

Mr. REID. I have spoken to the Republican manager of the bill. The Senator from Wyoming is next, and then Senator WELLSTONE will be recognized for up to 15 minutes. Senator DASCHLE, the majority leader, wishes to use part of Senator WELLSTONE's 15 minutes. Senator WELLSTONE has given consent to give part of his time to Senator DASCHLE. We will not use any more time, but there will be another speaker, if that is OK with the Senator from Kansas.

Mr. BROWNBACK. That is correct. We will maintain the same flow of people as under the unanimous consent request.

Mrs. BOXER. I have another speaker. The next Democrat after Senators WELLSTONE and DASCHLE would be Senator CLINTON.

The PRESIDING OFFICER. Without objection, the order will be so modified.

The Senator from Wyoming.

Mr. ENZI. Madam President, I rise in support of amendment No. 648, the Boy Scouts of America Equal Access Act, offered by my distinguished colleague from North Carolina, Senator HELMS. I am certain, with some modifications, any of the inflammatory groups that have been mentioned will be excluded from the amendment. The amendment was intended to be simple and straightforward in its purpose, to ensure the constitutional rights of 6 million Boy Scouts in the United States are not violated by public schools that receive Federal education funds.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and in the world today. The organization teaches its members to do their duty to God, to love their country, and to serve their fellow citizens. And they do that. The Boy Scouts have formed the minds and hearts of millions of Americans and prepared these boys and young members for the challenges they are sure to face for the rest of their lives.

I urge my colleagues to join in defending the Boy Scouts from unconstitutional discrimination by supporting the Helms amendment.

It has been said earlier in the discussion that this is an unnecessary amendment. It brings to mind two things. First, when did we stop doing unnecessary amendments around here? And second, this would not be brought up if it were not necessary.

I have had a number of opportunities, needs that should never have happened, to defend the Boy Scouts and make sure they have places to meet. I have a list of five times it happened during the year 2000, and eight times already this year. This is a young year.

An Iowa city school board voted to prohibit Boy Scouts from distributing any information in schools because of Scouts' membership criteria. Greg Shields, the national spokesman for Boy Scouts of America, said, ''We simply ask to be treated the same way as any other private organization . . . [and] that our free speech and right to assemble be respected just as we respect the rights of others.''

The New York Times reported that New York's Chappaqua School District officials were able to coerce two local Boy Scout troops into signing a document that denounced national policies of the Boy Scouts as a condition to allowing the troops access to school property.

I ask unanimous consent this list be printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 1.)

Mr. ENZI. Boy Scouts has been a part of my education. I am an Eagle Scout. I am pleased to say my son was in Scouts. He is an Eagle Scout. I say it is part of my education because each of the badges that is earned, each of the merit badges that is earned, is an education. I tell schoolkids as I go across my State and across my country that even though at times I took courses or merit badges or programs that I didn't see where I would ever have a use for them, by now I have had a use for them and wish I had paid more attention at the time I was doing it.

Boy Scouts is an education. It is an education in possibilities for careers. I can think of no substitution for the 6 million boys in Scouts and the millions who have preceded them. There are dozens on both sides of the aisle who have been Boy Scouts.

I always liked a merit badge pamphlet on my desk called ''Entrepreneurship.'' It is the hardest Boy Scout badge to earn. It is one of the most important ones. I believe small business is the future of our country. Boy Scouts promote small business through their internship merit badge. Why would it be the toughest to get? Not only do you have to figure out a plan, devise a business plan, figure how to finance it, but the final requirement for the badge is to start a business.

I could go on and on through the list of merit badges required in order to get an Eagle badge. There are millions of boys in this country who are doing that and will be doing that. They do need places to meet. They are being discriminated against. They are being told they cannot use school facilities.

It isn't just school facilities; it is Federal facilities. A couple of years ago, we had an opportunity to debate this again on floor, and it had to do with the Smithsonian. Some Boy Scouts requested they be able to do the Eagle Scout Court of Honor at the National Zoo and were denied. Why? The determination by the legal staff of the Smithsonian that Scouts discriminate because of their support for and encouragement for the spiritual life of their members. Specifically, they embrace the concept that the universe was created by a supreme being, although we surely point out Scouts do not endorse or require a single belief or any particular faith's God. The mere fact they asked you to believe in and try to foster a relationship with a supreme being who created the universe was enough to disqualify them.

I read that portion of the letter twice. I had just visited the National Archives and read the original document signed by our Founding Fathers. It is a good thing they hadn't asked to sign the Declaration of Independence at the National Zoo.

This happens in the schools across the country. Other requests have been denied. They were also told they were not relevant to the National Zoo. That is kind of a fascinating experiment in words. I did look to see what other sorts of things had been done there and found they had a Washington Singers musical concert, and the Washington premiers for both the ''Lion King'' and ''Batman.'' Clearly, relevance was not a determining factor in those decisions.

But the Boy Scouts have done some particular things in conservation that

are important, in conservation tied in with the zoo. In fact, the founder of the National Zoo was Dr. William Hornaday. He is one of the people who was involved in some of the special conservation movements and has one of the conservation badges of Scouts named after him.

If the situations did not arise, this amendment would not come up. But they do arise, as I mentioned with the list of eight incidents already this year. Four of those are on a statewide basis.

Last summer the Supreme Court in Boy Scouts of America v. Dale held that the Boy Scouts were entitled to full protection under the first amendment right of expressive association. The High Court held that State laws such as New Jersey's law of public accommodation unconstitutionally violated the first amendment rights of this venerable organization if they were applied to force the Boy Scouts to accept Scoutmasters whose lifestyles violated the Boy Scout oath. The Helms amendment will ensure that public schools that receive public education funds do not force the Boy Scouts to check their first amendment rights at the schoolhouse door.

The Helms amendment simply requires that the Boy Scouts are treated fairly, as any other organization, in their efforts to hold meetings on public school property. It does not require public schools to open their doors to any organization for before- or after-school meetings on public school property. It provides if the school is going to provide an open forum for youth or community groups before or after school, that school must allow the Boy Scouts the chance to use school property for their meetings.

Unfortunately, many school districts are bending to the pressure of far left interest groups in their attempt to deny the constitutional rights of the Boy Scouts of America. A number of school districts have prohibited the Scouts from meeting on public school property or have pressured local Scouting troops to denounce their very principles on which the organization was founded before they can have meetings there.

An example of this discrimination is in Broward County, FL, where the school board voted last November to prohibit the Boy Scouts of America from using public schools to hold meetings and recruitment drives. This is part of a growing trend of local schools, which are imposing viewpoint discrimination against the Boy Scouts because they disapprove of the Scout's message and the way they put this message into practice. Fortunately, the Federal courts have not looked favorably on this viewpoint of discrimination against the Boy Scouts in the early legal challenges to these actions.

In March of this year, the U.S. District Court for the Southern District of Florida issued a preliminary injunction against the Broward County School District to block their attempt to keep the Boy Scouts off public school property. The district court found that since the school district allowed numerous other groups to use public school facilities, they had established a limited forum. Accordingly, they were not allowed to discriminate against Boy Scout speech simply because they disagreed with the Scout's viewpoint on homosexuality. In granting this injunction, Judge Middlebrooks wrote:

> The constitutional rights to freedom of speech or expression are not shed at the school gate.

I have to mention, these are examples of where the Scouts were able to use the courts to assure that they were not discriminated against. I am pretty sure everybody in America recognizes if you have to use the courts to get your rights to use school buildings, it costs money. It costs time. This amendment eliminates that cost and eliminates that time, to allow the organizations to have the same rights as the other groups at school.

It is unfortunate, sometimes, that we have—the legal system is very important in the country but it has some interesting repercussions. Our system of lawsuits, which sometimes are called the legal lottery of this country, allow people who think they have been harmed to try to point out who harmed them and get money for doing that. It has had some difficulties for the Boy Scouts.

I remember when my son was in the Scouts their annual fundraiser was selling Christmas trees. One of the requirements when they were selling Christmas trees was that the boys selling trees at the lot had to be accompanied by two adults not from the same family.

I did not understand why we needed all of this adult supervision. It seemed as if one adult helping out at the lot would be sufficient. The answer was, they have been sued because there was only one adult there and that adult was accused of abusing the boys. Two adults provided some assurance that did not happen.

The interesting thing is, it was just me and my son at the lot and we still had to have another adult in order to keep the Boy Scouts from being sued.

They run into some of the same difficulties with car caravans.

So the legal system of this country has put them in the position where they are doing some of the things that they are doing. The legal system of the country has caused some of the discrimination that is done.

It is something we need to correct. This discussion of the Helms amendment is timely. On Monday of this week, the Supreme Court held that a public school in New York was not allowed to exclude the Good News Club, which is a private Christian organization for gradeschool children, from using public school facilities for the group's afterschool meetings. In the Good News Club v. Milford Central School, the Court determined that the school violated the club's first amendment free speech rights by discriminating against the group's viewpoint. The Helms amendment would assure that these free speech protections would also apply to the Boy Scouts of America.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and the world today. The organization teaches its members to do their duty to God, to love their country, and serve their fellow citizens. The Boy Scouts have formed the minds and hearts of millions of Americans and prepared these boys and young men for the challenges they are sure to face the rest of their lives. It is an essential part of Americana. I urge my colleagues to join me in defending the Boy Scouts from constitutional discrimination by supporting the Helms amendment.

EXHIBIT NO. 1

EXAMPLES OF BOY SCOUTS BEING DISCRIMINATED AGAINST

On May 21, 2001, the Gay, Lesbian and Straight Education Network—an activist homosexual organization—reported that "After launching a campaign last September [against the Boy Scouts] the Gay, Lesbian and Straight Education Network has tracked a total of 359 school districts which have severed sponsorships with the Scouts since the Supreme Court ruling last June" [www.glsen.org].

On May 11, 2001, the Associated Press reported that the Iowa City School board voted to prohibit the Boy Scouts of America from distributing any information in schools because of the Scouts membership criteria. Greg Shields, the national spokesman for Boy Scouts of America said, "We simply ask to be treated the same way as any other private organization . . . [and] that our free speech and right to assemble be respected just as we respect those rights of others.

On February 8, 2001, the Ashbury Park Press reported that the State [of New Jersey] is considering a rule change that would bar school districts from renting space to the Boy Scouts of America because of their position on homosexuality.

On February 7, 2001, The Arizona Republic reported that the Sunnyside School District, in Tucson [two-sawn], Arizona decided to charge the Boy Scouts of America fees to use school facilities, even though no other groups have to pay fees. The ACLU executive director said that, "While Boy Scouts, atheists, Nazis, even Satanists have the right to express their views, government should not use public money to promote them."

On January 28, 2001, the Boston Globe reported that the Acton School Committee in Massachusetts decided to prevent the Boy Scouts from distributing literature at school—even though other groups can do so. In defending its actions, Acton School Committee cited Massachusetts law, which says that schools cannot sponsor the Boy Scouts.

On January 14, 2001, the New York Times reported that New York's Chappaqua School District officials were about to coerce two local Boy Scout troops into signing a document that denounced the national policies of the Boy Scouts of America as a condition for allowing these troops access to school property.

On January 13, 2001, the Wisconsin State Journal reported that the Madison School Board voted unanimously to post a condemnation against the Boy Scouts of America in all 45 school districts.

On January 11, 2001, the News & Observer reported that ''The Chapel Hill-Carroboro school board voted to give Scouts until June to either go against the rule of their organization or lose their sponsorship and meeting places in schools.''

On December 18, 2000, the Seattle Union Record reported that a state coalition of advocates for gay and lesbian students has asked Seattle Public Schools to restrict the Boy Scouts of America's access to students and school buildings.

On December 2, 2000, the New York Times reported that the Schools Chancellor barred New York City public schools from: bidding on contracts with city schools, sponsoring Scout troops or allowing the Scouts to recruit members during school hours.

On November 20, 2000, the Associate Press reported that in Mount Pleasant, Michigan, School boards in Minneapolis and New York City, as well as other city and state governments and groups nationwide, have recently cut support of the Scouts because of its gay policy. In the Detroit suburb of Plymouth, a teachers union asked its school board to ban groups—including the Boy Scouts—that discriminate against gays.

On November 16, 2000 Fla. Today reported that ''Broward County's school board voted unanimously to keep the Boy Scouts of America from using public schools to hold meetings and recruitment drives because of the groups ban on gays.'' [District Court intervened.]

On November 15, 2000 the Telegram and Gazzete reported that in Worchester, Ma, ''Superintendent of Schools Alfred Tutela . . . banned the Boy Scouts from holding meetings in the properties of the Wachusett Regional Schools District.''

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, prior to my colleague, Senator WELLSTONE, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I say to my colleague, I thank him for adding to this debate. But if you believe in the rule of law, which we all do, the Supreme Court has spoken very clearly on this point. The Boy Scouts have equal access to every single public school in this country. The Supreme Court has so declared. So I, again, say to my friend, what is the purpose of this amendment? It is gratuitous, it seems to me. It is unnecessary. It hurts a group of people. It divides the country. We already know the Boy Scouts have equal access. With all the remarks he has made, if schools are not allowing that, they are breaking the law.

We do not need another law which, by the way, opens up a can of worms, as Senator BYRD, who supports the underlying amendment, says. It is a can of worms. It could invite people in who you really do not want. He mentioned the Ku Klux Klan and skinheads and other groups.

I appreciate being given this 1 minute.

Mr. BROWNBACK. I ask unanimous consent for 1 minute before my colleague from Minnesota speaks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Madam President, I think some of the reasons the Senator from California is raising may be valid to the point that this should pass 100–0. If this is not seen as a particularly contentious issue, if it is something that is going to happen and it is agreed to anyway, I hope we will all support the Boy Scouts. This is, indeed, about the Boy Scouts, and it is important to that organization that has 23 million members worldwide. I think it would be a good statement of support to them.

This issue is about the Boy Scouts and there are legitimate issues that have been raised. I think we can tighten the language; if some people are concerned about the expansiveness of ''youth group,'' make it just about the Boy Scouts and pass it 100–0.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, the majority leader is on the floor. I will limit my remarks to 3 minutes.

First of all, I am a son of a Jewish immigrant who fled persecution from Ukraine and then Russia. I grew up in a family where I was taught it was wrong to discriminate against anyone. I have tried to teach my children and my grandchildren the same. I am against discrimination of people because of nationality, race, gender, ethnicity, or sexual orientation.

I commend the Boy Scouts for all of the good work they have done for people. But I am very saddened that the Boy Scouts have engaged in what are discriminatory policies towards gays and lesbians. I think that is most unfortunate for what is otherwise a very fine organization.

There was a piece of legislation on this floor a number of years ago which said that any school district that ''promoted homosexuality'' would be cut off from Federal funds. Then I looked at the operational definition of it down a number of paragraphs, and that included counseling. So if you have a young man in high school and he goes to see a counselor, and if he says: I am gay, my friends disowned me, my parents have disowned me, and I feel worthless—I do a lot of work in suicide prevention and the mental health field. Unfortunately, a high incidence of suicide is among boys who are gay.

The way the Court has ruled, it is clear that if, in fact, community groups come into schools, so can Boy Scouts. That isn't even the issue. The question is whether or not if a school district has a policy of nondiscrimination and it chooses not to sponsor the Boy Scouts because the Boy Scouts discriminate against this group of citizens—against gays—it would no longer be able to do so, which then would provide Boy Scouts with not access but with special treatment.

That is wrong. It is wrong to say to any school district in any State and to any school board that you have to change your policy; that you have to sponsor a group which goes against the very values that you have professed, which is what we should not do; that is, discriminate against any group of citizens, any children anywhere.

That is why I oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, I think what the Senator from Minnesota said so eloquently, passionately, and accurately probably leaves little left to be said in regard to what this amendment is.

I rise today to express my disappointment with this amendment.

The Senate has been debating the Elementary and Secondary Education Act—off and on—for more than eight weeks now.

This is an important debate. We are talking about the blueprint for federal education policy and funding.

So far, this has been an unusually bipartisan debate.

We have been making principled compromises, and real progress.

And now this.

Let me be clear: I believe the Boy Scouts should have the same access to public school facilities as any other private organization.

But I fear that is not what this amendment is about.

I oppose Senator HELMS' amendment for two reasons.

First: It could usurp the rights of states, counties and local communities to make certain decisions for their own schools.

Under this amendment, communities that feel strongly that discrimination based on sexual orientation is wrong could face a terrible choice. They could either disregard their own conscience. Or they could follow their conscience and lose millions of dollars that their children's schools need.

Both sides have said, throughout this debate, that one of our goals should be to find ways to allow communities to make more decisions about their own schools, not fewer.

This amendment does exactly the opposite.

The second reason this amendment is such a disappointment to me is that—in my opinion—it tolerates discrimination.

A year and a half ago, Congress awarded the Congressional Medal of Honor—the highest honor this nation can bestow on civilians—to the ''Little Rock Nine.'' More than a generation ago, as children, they had the courage to help desegregate the Little Rock public schools.

Back then, millions of Americans—in Little Rock and across this nation—believed that segregation was a moral imperative.

There are many people today who believe that discriminating against gays and lesbians is also a moral imperative. I understand that. But that is not the American way.

Over the years, I've been honored with awards from many groups.

There are only a few that I keep in my office in the Capitol. One is an award I got three years ago this week from the National Capital Area Chapter of the Boy Scouts.

It's a sculpture of a young boy. I keep it in my office because of my profound respect for the good work the Boy Scouts have done in this country for more than 90 years.

We believe in principled compromise. But we cannot compromise on fundamental issues of civil rights.

Supporters of this amendment say they are merely defending the constitutional right of free association. They say they are simply protecting the right of a private organization to set its own rules.

But the Supreme Court has already ruled that the Boy Scouts have the same right as any other community or youth group to use school facilities.

This amendment seeks special rights for one organization. It could force communities to grant that organization special privileges—or lose thousands, perhaps millions of dollars in federal education aid.

It is sad to see the Boy Scouts—a group that has worked for more than 90 years to avoid political polarization—being used now by some to foster political polarization in this Senate, and in our society as a whole.

I hope my colleagues will reject this amendment. I hope that we can work together to finish this good bipartisan education bill because our children's future, our country, and the rights of all people, minorities, and those who are not minorities, stand in the balance.

I yield the floor.

Mrs. CLINTON. Madam President, if I could have 2 minutes to associate myself completely with the majority leader's eloquent statement, I rise in opposition to this amendment for all of the reasons that the majority leader has just outlined; but also, further, to say I was honored to serve for 8 years as the Honorary Chair of the Girl Scouts of America. I know the value of the Girl Scouts and the Boy Scouts.

To deprive any youngster of the opportunity to participate over this issue strikes me as regrettable at the very least.

The Girl Scouts don't discriminate. We have had an organization that has gone for so many years without any of this difficulty. It should be up to the local level to determine whether or not a local school district wishes to have the Boy Scouts offer these services to youngsters in their schools and in their districts.

I am absolutely amazed that my friends on the other side would propose an amendment that so totally eviscerates local control. It is already unnecessary, as we know, with respect to the use of facilities. The Supreme Court has already, as it did again yesterday, reaffirmed access to public school facilities.

If we are saying that having the Boy Scouts either in its present form or with slight modifications determined by the local parents and the schools would in any way jeopardize all Federal funding, it just absolutely amazes me that people on the other side could make such an argument.

So I believe, with all my heart, that we should not be discriminating against anyone in our country. But certainly a local district that tries to work out whatever its problems are with the Boy Scouts, and makes a decision that it considers in the best interests of its children, should not face the peril of losing all Federal funding that should be made available to educate our children, which is what we have been debating now for more than a month.

So I hope all of us will join in rejecting this amendment and making clear that we respect the Boy Scouts, we respect the Girl Scouts, and we especially respect local control over educational facilities and opportunities.

Thank you, Madam President.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized for 10 minutes.

Mr. SMITH of Oregon. Madam President, I think I am going to come at this issue more differently than any of my colleagues who have spoken so far.

I stand here as an Eagle Scout. I stand here as an Oregon Senator. I stand here as one who believes that gays and lesbians are due equal rights. I have tried to demonstrate that in the way I have conducted my service in the Senate, by supporting Jim Hormel's nomination to be an Ambassador for our country, by being the cosponsor, with Senator KENNEDY, of hate crimes legislation, and by now endorsing a new version of ENDA that has a broader religious exemption. I believe I stand here with some credibility when I come to the issue of tolerance.

One of my core values is that if we are to be true disciples, we should love one another. I try actively not to discriminate. But I believe I just heard the majority leader and the Senator from New York say that the Boy Scouts have a right to be in the schools but we can discriminate against them. And that is what impels me to this Chamber this morning.

This amendment of Senator HELMS is not raised in a vacuum. It hurts me personally, as one of five sons of my parents to have the Eagle badge, and the father of another Eagle, and another son on the way to Eagle, to see the values of that organization held up to ridicule by some on the left who I believe are terribly intolerant and who do discriminate against people of faith whenever they can.

I will tell you that in my working with the Human Rights Campaign, the folks there with whom I have worked have been very respectful of religious faith and have worked with me regarding religious organizations under the proposed ENDA law. I think that was a tolerant thing for them to do.

My great frustration is trying to say to the right and to the left: Toleration is a two-way street. What I have heard back and forth this morning is intolerance on both sides. I will tell you, as a Republican, how disappointed I was to see from the Republican Steering Committee this morning chapter and verse of instances where a homosexual man and Scout leader was also a pedophile. The inference they are trying to draw is that if you are a homosexual, ergo, you are a pedophile and cannot be a Scout leader. That is no more true than the proposition that a man who coaches a girl's soccer team will necessarily sexually abuse the girls.

We have to get beyond these stereotypes. This is wrong; this is intolerant; and it goes both ways.

So I believe Senator HELMS is here in good faith. I believe he is going to amend his amendment. I believe we can narrow it in a way to exclude those groups who do not have national charters with this Government or in some way to say that, yes, we do feel a need to stand up for the Boy Scouts of America.

Assuming we find that language, I intend to vote with Senator HELMS because, I will tell you, what I learned as a Scout is an ideal that I want to see preserved for our country. And I don't want them excluded from the national parks; I don't want them excluded from our public places; because I believe what I learned as a Boy Scout is as invaluable and as enduring today as it was when I learned it as a 12-year-old boy.

Madam President, we are doing a school bill here because we want to help our kids. Let me tell you what I learned as a Scout. We memorized it. I have to use these glasses now. I didn't then. But these are the qualities I would like taught in school: A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.

Then you come to the Scout oath. The last phrase is what everybody focuses on anymore. I didn't even know what it meant in a modern context when I learned it as a boy. It is:

On my honor I will do my best
To do my duty to God and my country
And to obey the Scout law;
To help other people at all times;
To keep myself physically strong,
Mentally awake,
and morally straight.

Do you know what I knew as a boy about ''morally straight''? I didn't know anything about gays or lesbians or ''straight.'' What I was taught that meant was that as a boy and a young man I should be sexually abstinent and that as an adult and a married man I should be sexually faithful to my spouse. Is that wrong? I know that that is a tough standard, but I say the U.S. Senate should keep that ideal high. And we can do it by supporting the Boy Scouts of America.

So while we are working out the language on the Helms amendment, I thank the Senator from North Carolina for the spirit of the amendment that

says these ideals, these values are valuable still.

Madam President, I think what is often lost in this debate about the Boy Scouts is how it is even organized. The Boy Scouts is a national institution with a national charter with this Government, and it is put out for any group that wants to sponsor it. They are called chartering institutions. Most of the chartering institutions are churches and synagogues. Some are police stations. Some may even be a school district. But I tell you, we ought to understand the spirit of religious accommodation. It ought to apply to the Boy Scouts as well. But in many cities in our country, this organization is being singled out for discrimination, and it is wrong because this is a standard.

These are values that I want taught in public school. And these are values that when I live them, my life is better for it and my pursuit of happiness is more full.

So I hope we can find the right language because this Eagle Scout feels a need to vote for the Boy Scouts of America on the floor of the U.S. Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, with the agreement and the graciousness of Senator BROWNBACK, we will have Senator MURRAY speak for 3 minutes, and I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I will never forget my daughter when she was that little Brownie girl. All the women Senators are giving the proceeds of our book to the Girl Scouts. There isn't anyone on this side of the aisle who doesn't believe it is very important to have organizations such as these to help our kids. We also believe, however, if you read this amendment, it is not about equal access for the Boy Scouts.

I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I want to respond quickly to the Senator from Oregon. I was concerned with his mischaracterization of those who oppose this amendment. As I heard him, I felt he was saying those who support this amendment support the Boy Scouts and the values of the Boy Scouts, and those who oppose it oppose the Boy Scouts.

I tell the Senator from Oregon and our colleagues, that is absolutely not the case. I have sat here and listened to the entire debate. Everyone who has opposed this amendment has spoken about the Boy Scouts personally in their own lives, including me. I remind the Senator from Oregon that I was a Brownie. I was a junior Girl Scout. I was a Girl Scout. I was a Brownie leader. I was a junior Girl Scout leader. I was a senior Girl Scout leader, and I was a Boy Scout leader for my son.

I think the Boy Scouts do a tremendous job in this country for a lot of young people, and I want them to continue to do that.

The opposition to this amendment comes because the Boy Scouts already have equal access to our facilities. They have them under current law, and it has been affirmed by court decisions. The concerns on our side are that this amendment and the language of the amendment as written will give the Boy Scouts access above and beyond any other group that asks for a school facility.

As a former school board member, the bind that will put our school districts in, as they look at this language and are told that if a church group comes to them and another group, perhaps seniors who are looking for tutoring, and Boy Scouts, is that they will have to pick the Boy Scouts over those other groups. School boards make these decisions based on a lot of different local decisions: On space, on how the facility will be used, on how many janitors they are going to have to hire, on what other kinds of demands there are on their facilities. Their underlying goal as a school board is to make sure the kids in their district are educated. We have to leave this decision in their hands and not put language into the Elementary and Secondary Education Act that forces them to choose one group over another.

Equal access is currently provided under law and by the courts. What we cannot do is tie the hands of school boards to give unequal access to a group, even though all of us on the floor may agree that it is a great group.

Mr. SMITH of Oregon. Will the Senator yield for a question?

Mrs. MURRAY. I am happy to yield for a question.

Mr. SMITH of Oregon. I say to Senator MURRAY, I don't cast aspersions on anyone. But I have heard a few say that the Boy Scouts are discriminators and therefore should be discriminated. I have heard that in several remarks. I am only making reference to that. I believe some legitimate concerns about the amendment have been raised. I am hearing from some that the Boy Scouts are out of date and old-fashioned. I am saying they ought to remain in fashion.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized for 10 minutes.

Mr. BROWNBACK. I appreciate that. I rise in support of the amendment. This is one that should pass 100–0. Hearing some of the comments on both sides of the aisle, I am not sure I understand why there should be any opposition to it.

I will read the applicable part of the amendment. It is on page 2. It says to any State educational agency, if a school, or schools served by the agency, denies equal access or a fair opportunity to meet or discriminates against any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum—and that is where the language is being worked on right now—on the basis of the membership or leadership criteria of the Boy Scouts, their funding is limited.

As the Senator from North Carolina pointed out, most of these never get to that point. The Department of Education looks at it, investigates. It is worked out at the local school district level. This all gets worked out. The operative point here is that if the Boy Scouts are going to be discriminated against, you are going to go into a process of being reviewed on your Federal funding.

Is this a legitimate concern? Some have raised the point this is not a legitimate concern. Let's look at the headlines. In the year following the decision of the Supreme Court, the Boy Scouts v. Dale, which affirmed the Scouts' right of free association—that is the issue here, right of free association, in the Constitution; it has been a raging storm. The New York Times has compared the Scouts to a hate group. Robert Scheer of the Los Angeles Times characterizes Scouts as engaged in hateful politics. They have been accused of bigotry. Activists groups have expressed being appalled at some of the Scouts' positions. Unfortunately, many school districts have responded to the controversy by attempting to discriminate against the Boy Scouts.

This is a point I am reiterating from the Senator from Wyoming, a former Eagle Scout. I, unfortunately, was not an Eagle Scout. We didn't have the Boy Scouts in Parker, KS. I wish we had. My son was in the Boy Scouts. It is a great organization. Some of the school districts have followed on after this sort of hyperbole and rhetoric regarding the Boy Scouts and they have started to respond.

Listen to what is happening.

In Seattle, the home State of the Presiding Officer, from the Seattle Union Record:

> Safe Schools Coalition Asks for Restricted Access for Seattle Scouts.

From the South Florida Sun-Sentinel:

> Broward School Board to Review Scouts' Lease.

From the Detroit News:

> Plymouth Schools to Vote on Ban on Scout Meetings.

This is an active issue against the Boy Scouts of America. People are saying the Boy Scouts is a good organization: we like the Boy Scouts, are part of the Boy Scouts, continue to be a part of the Boy Scouts; we should let them have public access. If you think this is an insignificant amendment, vote for it 100–0 then.

Unfortunately, the school districts' response to this controversy is based on what other people are saying about

the Boy Scouts of America and not what the Boy Scouts are doing or saying. In Kansas, we have a tradition and a thought that is appropriate to bring here; that is, that you take people at their word. Rather than attempting to characterize the nature of the Boy Scouts as an organization or offering just my opinions on that, I think we ought to let them speak for themselves. We talk a lot on the floor about character, the need for character, the need for that in this country. Everybody would agree we need character. We need to bring back those fundamental principles that this country was built upon.

Are the Boy Scouts a part of that? First and foremost, consider the question of whether or not Scouts are a hate group, as some have alleged. It is important to go back to the roots of this 90-year-old organization, look at the values upon which they exist.

Let's consider their oath the Senator from Oregon was citing, which I think is so beautiful. It is something we all ought to memorize as U.S. Senators and others:

On my honor I will do my best
To do my duty to God and my country

''In God we trust,'' above the halls of the Senate, major door through which we walk.

And to obey the Scout law;
To help other people at all times;
To keep myself physically strong,
mentally awake,
and morally straight.

As a parent of five, I like that. I think that is pretty good. I think that is pretty good character education. I don't see anything hateful in it. However, the oath does refer to the Scout laws. Maybe we need to look to see if this is a hate group or not.

In the Scout group, they call for trustworthiness. A Scout tells the truth, keeps his promises. Honesty is part of his code of conduct. People can depend on him. A Scout is loyal. A Scout is true to his family, Scout leaders, friends, school, and Nation. A Scout is helpful. A Scout is concerned about other people. He does things willingly for others without pay or reward. That is a nice notion to bring back.

A Scout is friendly. A Scout is a friend to all. He is a brother to other Scouts. He seeks to understand others. He respects those with ideas and customs other than his own.

A Scout is courteous. A Scout is polite to everyone, regardless of age or position. He knows good manners make it easier for people to get along together. A Scout is kind. A Scout understands there is strength in being gentle. He treats others as he wants to be treated. He does not hurt or kill harmless things without reason. A Scout is obedient. A Scout follows the rules of his family, school, and troop. He follows the rules of the school. He obeys the laws of his community and country. If he thinks these rules and laws are unfair, he tries to have them changed in an orderly manner rather than disobeying them.

A Scout is cheerful. A Scout looks for the bright side of things. He cheerfully does tasks that come his way. He tries to make others happy. They may be being tasked on that one at this point in time.

A Scout is thrifty. A Scout works to pay his way and to help others. He saves for unforeseen needs. He protects and conserves natural resources. He carefully uses time and property. A Scout is brave. A Scout can face danger, even if he is afraid. He has the courage to stand for what he thinks is right, even if others laugh at or threaten him. And they are being threatened today.

A Scout is clean. A Scout keeps his body and mind fit and clean. He goes around with those who believe in living by these same ideals. He helps keep his home and community clean. He helps keep his home and community clean. A Scout is reverent toward God and faithful in his religious duties. Listen to this one. He respects the beliefs of others.

I don't see any hate espoused there. In fact, quite the contrary, the Scout law advocates respecting the beliefs of others. Yet the Scouts' beliefs are not being respected here and they are being singled out for discrimination, and some are even alleging they are discriminatory. Helping others is part of it, as are being gentle and treating others with respect. That is part of their core values. Considering all of the violent and hateful influences which our children are exposed to on an hourly basis, I find it supremely ironic that school boards are so concerned with the influence of an organization whose slogan is ''do a good turn daily.''

Looking at the Scouts' founding principles may not be enough to clear the record. Perhaps it is better to take them at their word regarding the particular issue of this debate—their stand on having homosexual leaders. The question I believe many school boards in the country are asking is, Are the Boy Scouts of America a homophobic organization? To which I would aggressively respond: No. No, they are not. Even in their own creed they say ''respect for diversity.''

I want to put in a quote the Boy Scouts forwarded:

The Boy Scouts of America respects the rights of people in groups who hold values that differ from those encompassed in the Scout Oath and Law, and the Boy Scouts of America makes no effort to deny the rights of those whose views differ to hold their attitudes or opinions.

That is what the Boy Scouts say and do themselves. Scouts come from all walks of life. They are exposed to diversity in Scouting that they may not otherwise experience. I know from my work with the Scouts, it is a diverse group. It gives a lot of opportunity to a lot of kids. The Boy Scouts of America aim to allow youth to live and learn as children and enjoy Scouting without immersing them in the politics of the day.

I think this last quote from the Boy Scouts is particularly appropriate. In truth, this debate is not about the Scouts—it is about the politics of the day into which the Scouts have been swept. They have had this motto, and they have had these views and they have been an organization 90 years. As far as the politics of banning one of the oldest and most noble youth organizations in this country from public property, we cannot, should not, and we must not let this happen.

I call on all of my colleagues in the Senate to pass this worthy amendment. With that, I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Helms amendment is a solution in search of a problem. The Senator from North Carolina says his amendment is needed because schools are excluding the Boy Scouts from using their facilities, and this is simply not true. Just this week, the Supreme Court reaffirmed the right of groups such as the Boy Scouts to use public school facilities. This amendment is about punishing schools that decided to no longer sponsor the Boy Scouts because of their exclusionary membership policy.

Currently, 359 school districts, with a total of 4,418 schools in 10 States, including Massachusetts, no longer sponsor the Boy Scouts. This is the statute in my State of Massachusetts:

Extracurricular activities, advantages, and privileges of public schools include all extracurricular activities made available, sponsored, or supervised by any public school. No school shall sponsor or participate in the organization of outside extracurricular activities conducted at such school that restricts student participation on the basis of race, color, sex, religion, national origin, or sexual orientation.

This does not prohibit school committees from allowing the use of school premises by independent groups with restrictive membership. Therefore, they can use the facilities. The Massachusetts statute indicates they can't be made to sponsor.

The Helms amendment is attempting to override the State statute and the decisions being made locally. I think that is unwise, unnecessary, and wrong. Although the schools do not sponsor the Boy Scouts, the Scouts are still given access to school facilities as any other group. The Boy Scouts may have a constitutional right to use public school facilities. They do not have the right to demand school sponsorship. Yet that is exactly what the amendment allows them to do.

The amendment also contains a harsh punishment on the schools that decide no longer to sponsor the Boy Scouts with the loss of all Federal education funds. I strongly urge my colleagues to vote against the Helms amendment.

Madam President, we have been on the floor for 8 weeks attempting to try to fashion and shape legislation that

was going to enhance the education of children all over this country. We have a good bill, and it seems to me to be unwise in that effort to bring effectively something that these children have no control over. We are giving accountability to the children to exceed themselves in the challenge they are facing. We put additional challenges on teachers, on parents, on schools. We are encouraging the States for greater participation and involvement. Now we have this amendment, the results of which would deny the benefits of the advantages of this legislation to reach many different children in our country. It seems to me to be unwise. I hope the amendment is defeated.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. As the Chair knows, I obtained unanimous consent that I might deliver my remarks from my chair for obvious reasons.

I have listened in fascination to the discussion on the Senate floor this morning and this afternoon. It bears out exactly what I was told was going on in the way of the lining up of opposition on the other side to this amendment by the homosexual-lesbian leaders in this area. Let me say at the outset that I don't like the corruption of a once beautiful word ''gay'' which has been adopted as a description of conduct that is anything but that.

It is all right with me if the other side wants to make a political football out of this thing, but they were not prepared and they had not been energized when this amendment came up the first time. In any case, I have heard here that the Boy Scouts are not being discriminated against and all of this is false, and so forth and so on.

Let me give a few examples. On May 11 of this year, the Associated Press reported that the Iowa City school board voted to prohibit the Boy Scouts of America from distributing any information in schools because of the Scouts' membership criteria. A spokesman for the Boy Scouts of America:

> We simply ask to be treated the same way as any other private organization and that our free speech and right to assemble be respected just as we respect the rights of others.

On February 8 of this year, the Asbury Park Press reported that the State of New Jersey is considering a rule change that would bar school districts from renting space to the Boy Scouts of America because of their position on homosexuality.

On February 7 of this year, the Arizona Republic reported that the Sunnyside School District in Tucson decided to charge the Boy Scouts of America fees to use school facilities, even though no other groups have to pay for use.

The ACLU executive director said:

> While Boy Scouts, atheists, Nazis, even satanists have a right to express their views, Government should not use public money to promote them.

What goes on here? Is this not really an attack by one group on the Boy Scouts of America? Of course, it is. Why do you think these people have been standing up and telling how long they served in the Girl Scouts in a tearful sort of way? The goal here is the goal of the organized lesbians and homosexuals in this country of ours.

On January 28 of this year, the Boston Globe reported that the Acton School Committee in Massachusetts decided to prevent the Boy Scouts from distributing literature at school even though all other groups can do so. In defending its actions, Acton School Committee cited Massachusetts law that says schools cannot sponsor Boy Scouts.

On January 14 of this year, the New York Times reported that New York Chappaqua School District officials were able to coerce two local Boy Scout troops into signing a document that denounced the national policies of the Boy Scouts of America as a condition for allowing these troops access to school property.

Don't you see what is going on here? The Supreme Court knocked them in the head. The Supreme Court stood up for the Boy Scouts of America, exactly as I am trying to stand up for them.

I am a little bit sick at my stomach at some of the mewling and puking that has gone on in this debate this morning and this afternoon.

On January 11 of this year, the News and Observer, my favorite newspaper in Raleigh, NC, said that the Chapel Hill-Carrboro School Board voted to give Scouts until June—la-di-da—either to go against the rule of their organization or lose their sponsorship and meeting places in schools.

I have two or three more pages. If anybody is interested, Madam President, I will be glad to read them into the RECORD. Otherwise, I am going to place them in the RECORD so they can be examined when the vote has been taken, and if the other side manages to defeat this amendment, as has been advocated and worked for by the organized groups to which I have been referring, then it will be there for the public to see who is who and who is for what.

I am going to pause momentarily, but I will be back, because Senator KYL has been waiting to address this amendment. I thank the Senator for coming. I yield to him.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I rise in support of the Helms amendment. Since 1910, for the past 91 years, the Boy Scouts of America have been instilling in young boys the values of personal responsibility, community, and duty to God, respect for individual beliefs, and patriotism. Millions of boys have become better citizens because of the availability of Scout troops in their communities.

I respect the message of the Boy Scouts and respect their commitment to instilling these ethical and moral values in young boys. Unfortunately, there are some who do not respect the Boy Scouts' message. Some school boards are taking action to prevent the Boy Scouts from distributing recruitment information and holding meetings and not, as has been suggested, because some more appropriate group needs the space but because of what the Scouts believe. That is why I have chosen to speak today to voice my concerns regarding the discrimination the Boy Scouts are facing and to support the Helms amendment that will allow the good work of the Scouts to continue in schools.

Last year, the U.S. Supreme Court upheld the Boy Scouts' first amendment right of association to create their own criteria for Scout leaders, even if that means prohibiting homosexual leaders in order to uphold its focus on strong moral values. That was in Boy Scouts v. Dale.

Since that critical Supreme Court decision, the Boy Scouts have experienced serious discrimination for exercising their constitutionally protected rights, and that is not right.

Boy Scout troops across America are facing obstacles put in place by school boards. In a Wall Street Journal article from last July, it was noted that poor minority children will suffer the most as a result of this all-out attack on the Boy Scouts.

It is vital to hold Scout meetings in local public schools, particularly in inner-city neighborhoods because often that is the only safe place for these kids to congregate.

The Senator from Massachusetts said the amendment is a solution looking for a problem, but the Congressional Research Service has reported already nine specific school boards have taken action to restrict Boy Scout access to public school facilities. The Senator from North Carolina had just gotten started reciting a litany of examples where this has occurred and apparently has several more pages from which he can read.

This is a problem, unfortunately, that requires a solution, and the point of his amendment is to stop the trend so we do not have any more examples and so the Boy Scouts do not have to continually litigate every time they want to enforce their constitutional rights.

This Congress has taken action over and over where the Supreme Court has guaranteed rights to a group or an individual or a cause of one kind or another, and we have sought to embody in the law a remedy so that the entity or the group does not have to constantly go to court to battle for these constitutionally guaranteed rights. That is what is meaningful about the kind of action that is being proposed today.

An example as recently as November 2000, the Broward County School Board voted to prevent the Boy Scouts altogether from using public schools to hold meetings and recruitment drives. They challenged this in the Federal

court, and the Boy Scouts won the initial victory.

In March 2001, the district court issued a preliminary injunction that will allow the Boy Scouts to continue their regular meetings and recruitment.

Yes, it is true that some have argued there is a remedy for the Boy Scouts to enforce their constitutionally protected rights. Why wouldn't we want to assist them so they do not have to go through expensive court litigation every time another school board decides to take this kind of discriminatory action.

This past Monday, the Supreme Court held that a public school violated the Christian organization's free speech rights by excluding the club from meeting after school. The Court found the school was discriminating against the club because of its religious nature, and the Court rejected this viewpoint discrimination.

More and more the Court is acknowledging the fact it is appropriate for us to protect these kinds of rights. There are about 85,000 Cub Scouts and Boy Scouts in my own State of Arizona. They rely on every public elementary school in Arizona to open the cafeteria or another room in afterschool meetings and help Scouts distribute information.

I have gone to these schools and participated in the awarding of Eagle Scout badges, for example. I suspect almost all of us have done that, and it makes us feel very good to be supporting these youngsters who really want to become very good citizens.

Even in my State of Arizona, the Boy Scouts have been subjected to this kind of discriminatory practice by school boards. One district outside of Tucson will simply not sponsor Scouting anymore. It has nothing to do with the need of other school activities for the space that has been devoted to the Scouts.

Another school district began charging fees for the Scouts to use its facilities, but the same district does not charge a fee for any other group. Why charge the Scouts? The district said the Boy Scouts do not meet the goals and objectives of the school district.

In another district, school employees took it upon themselves to throw away recruitment fliers in order to prevent the Boy Scouts from getting its information out to the students.

I think the need for this is clear. The Boy Scouts need our help to ensure equal access to our public schools. They should not be forced to continually go to court to protect their constitutionally guaranteed rights.

If they are denied access for legitimate purposes, this amendment does not apply. It is only to enforce their right against discrimination. They are experiencing hostility and exclusion from some public schools. It has to stop.

The Helms amendment ensures they are not going to have to go to court to protect their rights. They will continue to be able to meet and teach young boys strong moral values. I hope others will join in supporting this very important and needed amendment to this bill.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I appreciate the opportunity to discuss this issue. I think it is an important issue. There is a real problem we need to wake up and face. As a former Boy Scout and former Eagle Scout, I feel strongly about it and want to share some remarks on the subject.

We grew up in a little community outside of town with nine boys in the community. Of the nine, eight became Eagle Scouts and one was a Life Scout. We always teased him, why he didn't finish, and he always said he regretted not having completed the program, one step from being an Eagle Scout.

Every Thursday evening, we went to town, and we had to pool our cars. A parent or kids who had their license would drive to our meeting. We would do camps together. We did the Scout oath and Scout laws every Thursday night:

On my honor I will do my best
To do my duty to God and my country
And to obey the Scout law;
To help other people at all times;
To keep myself physically strong,
mentally awake,
and morally straight.

I never thought that much about it, but over the years that had an impact on my life. In our town, people remained in Scouts into their senior year in high school.

The first time I came to Washington was with a Boy Scout troop. We had a 50th anniversary of that troop, and 60 had been Eagle Scouts. From the 9 boys of my little community, 15 miles outside of the town, every one of them had a full degree from college, several have Ph.D.'s, law degrees, and advanced degrees. One is a medical doctor. One is a dentist.

It meant a lot to me. We also did the Scout laws every Thursday night: A scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty—that is a good word we don't use much anymore—brave, clean, and reverent. The word ''God'' is used and the word ''reverent'' is used, but it is decidedly not a sectarian organization. Not one bit of the literature or otherwise suggests that. To the contrary, it is an organization that encourages boys to develop a spiritual side and to recognize that they are indeed more than a random collection of particles but are created persons. That is a key component of the Boy Scouts.

Several years ago my friend, Senator ENZI from Wyoming, talked about being an Eagle Scout, as is his son. He told a story about the Washington zoo in the U.S. capital. The Washington zoo would not allow the Boy Scouts to have a Court of Honor. And, by the way, one of the founders of the Washington zoo was one of the founders of Boy Scouts. They were not allowed because they discriminate against atheists. The oath required that boys do their duty to God. They said if you were an atheist, you could not take the oath; therefore, you were a discriminatory organization and you could not use the property at the Washington zoo to have a Court of Honor.

We raised that point. It was not lightly taken. There were letters written to defend it. But when confronted with it, the leader of the zoo capitulated and apologized and said that was not a good policy and they would not continue to adhere to it.

What is troubling to me is that we have skirted the issue some, but there is a group of Americans who believe very strongly—and I don't disparage their motives—that the Boy Scouts' position on gay Scoutmasters is not appropriate, and they have set about to punish the Boy Scouts. I don't think there is anybody here who would deny it. They are politically active. They work United Fund committees, and they work school boards and city councils. And they seek to get them to eliminate Boy Scouts from public facilities. That is what is happening. There is no mystery about that.

We give a lot of Federal money to school systems. I don't believe every time something irritates us that the Federal Government ought to get involved, but I feel strongly abut this. The Supreme Court of the United States upheld the right of the Boy Scouts to make this determination.

Some say there is no discrimination going on against the Scouts. There plainly is. It will plainly continue. As far as I am concerned, if there is a school system in America that says to a little Boy Scout troop, such as troop 94 in Camden, AL, you can't have a meeting on school grounds because of your policy concerning your leadership and the behavior of your members, you can't have it here, even though the Supreme Court said yes, as far as I am concerned, they don't need Federal money and I am not voting to give it to them.

That is where we are. I am not sure exactly how the language is going to come out. I know Senator HELMS would like to make sure there was the least possible controversy over it. I would like that also. I firmly believe we ought to affirm through governmental entities and organizations the kind of character-building program to which the Boy Scouts are committed. ''Do a good turn daily'' is the motto.

I read and clipped an article that brought tears to my eyes, an article in one of the newspapers about Boy Scouts in Rwanda. They had all their uniforms confiscated, but they had their kerchiefs. The picture with that article showed those Scouts at a hospital in war-torn Rwanda, cutting the grass. They were interviewed, and they said: We always do a good turn daily. I

tried to get them some help. The article went on to say that when the totalitarian leader took over, he oppressed the Scouts; he took their uniforms and their books, and he forced all the young people to join, for lack of a better word, a Hitler-type youth group of which everybody had to be a part. They refused. They stayed true to their oath. Under oppression we have the finest example of commitment. That was very moving to me.

These ideals are wonderful ideals. I find it difficult for anyone to conclude that there is something unhealthy in the way the Boy Scouts do business. It ought to be affirmed and nurtured. A school system that will not provide them their constitutional right does not deserve a dime of Federal money, in my opinion. I think the Helms amendment will help deal with that and get some attention from around the country.

I yield the floor.

Mr. REID. Mr. President, today, the U.S. Senate made a strong statement in support of the right of the Boy Scouts of America and other youth groups to enjoy equal access and a fair opportunity to use the facilities of our Nation's public schools. I am proud to have joined my Senate colleagues in supporting an amendment to S. 1, the Elementary and Secondary Education Act, which will codify in Federal law recent decisions by the Supreme Court of the United States upholding these basic rights of equality and fairness for the Boy Scouts.

I am also a strong supporter of the right of private organizations such as the Boy Scouts to organize as they wish. My son was on Eagle Scout, and I know firsthand the values on which the Boy Scouts and the Girl Scouts stand. The Scouts stand for strong moral character, duty to God, a respect for the rule of law, service to others and loyalty and allegiance to country. Based upon these high standards, the Boy Scouts and any such private organization should be allowed to determine its own membership without interference. This prerogative has been upheld by the U.S. Supreme Court as recently as this week, and I commend the Senate for endorsing this fundamental right.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina, Senator HELMS. This amendment, the Boy Scouts of America Equal Access Act, is very clear in its purpose, which is ''To prohibit the use of Federal funds by any State or local educational agency or school that discriminates against the Boy Scouts of America in providing equal access to school premises or facilities.'' I am pleased to be a cosponsor of this amendment.

It is appropriate that this amendment be considered and adopted on this education bill. Since its founding in 1910, the Boy scouts of America, BSA, has complemented youth education with a program that teaches skills and values that will help those youth throughout their lifetimes. Over the past 91 years, more than 100 million young men and women have been served by Scouting. For those young people, Scouting has provided a program of values and leadership, joined with an opportunity to improve themselves by helping others.

The BSA is primarily concerned about the youth it serves. Its mission statement states: ''The mission of the Boy Scouts of America is to prepare young people to make ethical choices over their lifetimes by instilling in them the values of the Scout Oath and Law.'' The Scouting program has three specific objectives, commonly referred to as the ''Aims of Scouting.'' They are character development, citizenship training, and personal fitness. The methods by which the aims are achieved are Advancement, Uniforms, Outdoor Program and Skills, Youth Leadership, Patrol Method, Community Service, and Adult Association. In addition, the Scouting Program through a variety of means works to prevent child abuse, drug abuse, hunger, functional illiteracy, and teen unemployment.

Scouting has become an American institution, a natural element in most communities. Scouts exemplify the values outlined in the Scout Oath and Law and dedicate themselves to serving their communities.

The BSA respects the rights of people and groups who hold values that differ from those encompassed in the Scout Oath and Laws, and the BSA makes no effort to deny the rights of those whose views differ to hold their attitudes or opinions. Likewise, the Boy Scouts of America aims to allow youth to live and to learn as children and enjoy Scouting without immersing them in the politics of the day. Unfortunately, certain groups dissatisfied with the Boy Scouts of America's membership policies and the moral views on which they are based have suggested that the BSA not have the privilege of meeting in public schools or distributing recruitment information at public schools. I do not agree with that suggestion. Just as other student or community groups are permitted to have access to public school facilities, the Boy Scouts of America should have the same access.

I am proud of my association with the Boy Scouts of America. I strongly support the amendment that would permit the Boy Scouts to have equal access to public school facilities. This amendment is consistent with the decision by the United States Supreme Court which reaffirmed the Boy Scouts of America's standing as a private organization with the right to set its own membership and leadership standards.

Mr. LEAHY. Mr. President, the amendment offered by Senator HELMS entitled the ''Boy Scouts of America Equal Access Act'' aims to ensure that the Boy Scouts of America has access to our nations' public school facilities. The Boy Scouts already have access to our public schools, access that is guaranteed by the Constitution. As recently as this past Monday, the Supreme Court confirmed in the case of Good News Club v. Milford Central School that when a public school establishes a limited open forum, the school may not discriminate on the basis of viewpoint among groups wishing to use that forum. Under that decision and its predecessors, the Boy Scouts already have the same right to use public schools as any other group. We do not need to echo the Constitution's clear protections through an amendment to the reauthorization of the Elementary and Secondary Education Act.

Moreover, this amendment does more than simply reiterate what the Supreme Court has already made clear about access to our public schools. It conditions federal funding on the willingness of school districts to accept groups with ''membership or leadership criteria, that prohibit the acceptance of homosexuals.'' Districts that refuse space to any groups besides the Boy Scouts, or groups with similar views on homosexuality, are subject to no Congressionally-mandated penalty. Indeed, the only specially protected viewpoint under the Elementary and Secondary Education Act would become the refusal to accept gays and lesbians. I am uncomfortable with the Congress endorsing these particular views above all others, and I believe that the courts would likely find this to be impermissible viewpoint discrimination. The Supreme Court has stated that: ''Regulations which permit the Government to discriminate on the basis of the content of the message cannot be tolerated under the First Amendment.'' *Simon & Schuster, Inc.* v. *Members of the N.Y. State Crime Victims Bd.*, 112 S. Ct. 501, 508 (1991). In my opinion, this amendment would do precisely what the Court has said the First Amendment prohibits.

I oppose the Helms amendment because it accomplishes nothing except to provide special and unprecedented protection for one particular and deeply controversial view, the Boy Scouts' decision to ''prohibit the acceptance of homosexuals.'' This is not the job of Congress, and it should not interfere with the important work we are doing to reform our education system. It is also worth noting that this amendment does not prevent schools from withdrawing their sponsorship of the Boy Scouts, as some supporters have stated. It simply guarantees the organization the access that they already have.

This amendment is unnecessary. This debate needs to be about the education of our children, about pressing problems such as providing high quality teachers; ensuring access to technology; funding programs to assist low-income and disadvantaged students;

and, renovating and repairing deteriorating schools. We have had a good debate on these issues over the past several weeks and have done so in a bipartisan and cooperative manner. As we come to what may be the closing hours of our consideration of the critical issue of education reform, I urge my colleagues to maintain the focus on our school children and the quality of the programs, facilities and services they receive and to oppose this divisive and unnecessary amendment.

Mrs. FEINSTEIN. Mr. President, I rise in opposition to the Helms amendment. Under our Federal Constitution and laws, public schools are already required to provide equal access to their facilities. This amendment, therefore, is unnecessary. As such, its only result would be to divide our communities rather than bring them together.

It is unfortunate that an organization that has meant so much to our nation has now become the object of a larger debate on civil rights and national unity. This amendment is not a vote on the legitimacy of the Boy Scouts as a national institution. Rather, it is a vote on the direction in which we want our country to go.

I have heard from constituents who are opposed to this amendment. One was a teacher who spoke eloquently to the divisiveness of the amendment. He wrote:

DEAR SENATOR FEINSTEIN:

As your constituent, I strongly urge to oppose the Helms amendment to the Education Bill (S. 1), which would deny all Federal education funding to any school that has been found to discriminate against the Boy Scouts or any other youth group that denies membership to gays and lesbians.

Aside from being politically divisive and unrelated to the underlying bill, the Helms amendment is completely unnecessary and is a punishment in search of a problem. The use of public school facilities is governed by the First Amendment. The Helms amendment does nothing to further the goals of improving education and serves only as an anti-gay attack. I urge you to oppose this amendment and look forward to hearing your views on this important issue.

Other constituents voiced their concerns about the message of intolerance such an amendment would carry if passed. A family from Valley Glen, CA wrote:

We are very much offended by the discrimination that the [Boy Scouts of America] is able to operate with under the blessings of the U.S. Supreme Court. On one hand we applaud the actions of school boards, city councils, police departments, corporations and United Way agencies for standing up for what they believe. On the other hand, as members of Temple Beth Hillel (Valley Village, CA), we are quite proud of our Pack 311 and Rabbi Jim Kaufman's stand that the basic program is great and that the best way to make change is from within.

Additionally, as a family who is very active in the Girl Scouts . . ., we are quite proud that [the Girl Scouts] are inclusive of all girls and their families.

Our tax dollars should not be used to support the discrimination that the ''Boys Scouts Equal Access Act'' is trying to affirm. We urge you to help to defeat this act and to help to hold the [Boy Scouts of America] to the same standards that the country as a whole is striving for. The [Boys Scout of America] is a great American institution and we hope that it can continue to be so following the same non-discriminatory rules as the rest of the country.

Here are my views on the matter: first, the Supreme Court has already spoken to the issue of equal access for private organizations. Last year, the Court ruled in Dale v. Boy Scouts of America that the Boy Scouts had a First Amendment right to prohibit gay men and lesbians from serving as leaders in the Boy Scouts. What this decision means is that the governments cannot directly penalize the Boy Scouts for constitutionally protected views and policies, as the New Jersey public accommodations law had sought to do in the case. Nor can they indirectly penalize the Scouts by denying access to public facilities and other benefits available to other private groups.

So, for me, the matter is settled. Already a school must allow access to an organization like the Boy Scouts, regardless of the organization's viewpoints, or risk losing federal funding. The Constitution already protects the Boy Scouts and similar youth groups, so there is no reason for Congress to intervene.

I also oppose the Helms amendment because of its sweeping potential to limit the rights of state and local governments to make decisions for their own school districts, and for their own children, as to their communities' tolerance of discrimination. One provision of the amendment in particular troubles me: It would provide special protection to groups that prohibit the acceptance of homosexuals. Basically, it singles out for protection a type of discrimination. A consensus developing in our country is that discrimination of this kind is wrong. Across the nation, local jurisdictions are voting to prohibit discrimination against gays and lesbians.

In my hometown of San Francisco, a city that prides itself on the diversity of its views and the diversity of its people, a cornerstone of the community is its belief that basic civil rights protections should extend to every American, and not only to a few and under certain circumstances. A vote in favor of this amendment would be an indictment against the people of San Francisco and of their rich tradition of accepting others.

And it would be an indictment of the many other communities throughout California and the rest of the nation that promote diversity and tolerance for all. I urge my colleagues to oppose this amendment, which would foster a sense of division and disunity.

Mr. FEINGOLD. Mr. President, the work of the Boy Scouts of America is commendable, and I am proud to have been a Boy Scout. However, I must oppose the amendment offered by the Senator from North Carolina, Mr. HELMS, on constitutional grounds.

The Helms amendment would prohibit federal education funding for schools, school districts, or States that deny access to their facilities to the Boy Scouts, or other such organizations that discriminate based on sexual orientation. In fact, the Supreme Court has already held that if school districts provide some groups access to their facilities as an open forum, they must provide all groups equal access to those facilities. The Helms amendment is not needed to assure the Boy Scouts equal access if a local school district decides to open its facilities to outside groups.

Regrettably, the effect of the Helms amendment as drafted is to give specific groups additional rights to school resources not afforded to other groups. As such, the amendment would thus violate the first amendment by singling out groups that discriminate on the basis of sexual orientation for special treatment. Just as government may not retaliate against or be hostile toward a particular viewpoint, it may not endorse or show favoritism toward such a message. I do not believe that the Federal Government should single out particular policies for special protection using the power of education funding.

Because the Helms amendment violates the first amendment, I will vote ''no.'' I hope that the amendment can be revised in conference to protect all groups from unfair treatment at the hands of federally funded schools based on the views that they express. That would be the right, and the constitutional, way to handle this issue.

Mr. BAUCUS. Mr. President, I rise today to share my thoughts on Senator HELMS' amendment that would deny Federal education funds to schools that deny access to the Boy Scouts of America.

I want to be very clear that my vote against this amendment in no way represents a vote against the Boy Scouts of America. I have always been, and will continue to be, a strong supporter of the Boy Scouts of America. The Boy Scouts provides an opportunity for our children to create and accomplish goals, increasing their sense of self worth and discipline. Boy Scouts learn about the importance of maintaining respect and honor for themselves and others, and Scouts are often excellent role models for their peers. I am firmly convinced that organizations like the Boy Scouts and Girl Scouts play an important role in the development of well-adjusted and productive children.

I voted against this amendment because I felt it provided a Federal solution to a local issue, and I think that is wrong. Under current law, local school board members decide which organizations are permitted to meet in their schools. I want community members and school board members to continue to have that ability. They know best what their children need, and their decisions reflect local values and priorities.

I further want to point out that the Boy Scouts already have equal access

to our schools under current law. I firmly believe that the Boy Scouts should be allowed in our schools, and I am pleased that the Supreme Court has upheld the right of the Boy Scouts to have equal access to our public schools. Should there be cases where the Boy Scouts are denied access to our schools, I think our judicial system is well positioned to determine whether a school's decision was fairly and equitably reached.

I felt that this Supreme Court decision fairly addressed the issue of equal access while keeping control at the local level. I further felt that this decision would give the necessary support to the Boy Scouts of America to meet in our schools without necessitating Congressional intervention. For these reasons, I voted against this amendment.

In my mind, a better alternative, in the form of an amendment introduced by Senator BOXER, existed. I supported that amendment, which affirms the right of the Boy Scouts to meet in our schools without imposing a Federal mandate.

Mr. REID. Madam President, if I could direct a question to the Senator from North Carolina, does the Senator have an idea how much longer he wishes to have this matter debated, just so we can inform Senators when we can expect a vote?

Mr. HELMS. I would say not more than 4 more hours.

Mr. REID. The Senator has said for not more than 4 more hours, so everyone should keep that in mind. If Senator HELMS uses the time he wants, we would vote about 5:30.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, I was listening to the debate and wanted to come down and offer a few thoughts.

First of all, I have heard all the people talking about their days in Scouting. I wish I could add to those voices except I was not necessarily the cleanest cut kid in the world. As a matter of fact, I tried Scouting for only about 3 weeks. So I cannot join the chorus of those who were Eagle Scouts and made it on to the U.S. Senate. But scouting was something that I witnessed growing up. I saw a lot of people whose lives it transformed. Perhaps if I had stayed with Scouting my life would have been transformed a little earlier than it otherwise was.

I have seen many children over the years whose lives have been influenced so greatly by Scouting. The Eagle Scout ceremonies I have gone to honor incredible people. They honor not only the Scouts themselves, but the leaders of the Scout troops who dedicate so many hours to young people and their development. These are the types of activities we should be encouraging.

But I also wanted to add a few words. We do not want to be gay bashing around this Chamber. At least I do not believe we should be. People have the right to live their lives as they choose to live their lives. But I believe in freedom in America. I believe, for instance, if there was a group of people who believe in a gay lifestyle, they may require that same lifestyle or belief of their leadership. I believe that group should be allowed all of its constitutional rights; the right to require that their leaders have their same beliefs. This is, to me, a matter of freedom.

The Boy Scouts have chosen what they want and what they determine as their organization. In America, we should be able to have these types of organizations.

As a matter of fact, there is a group called the Royal Rangers. For those who are not familiar with the Royal Rangers, they are Christian organizations who believe that the Boy Scouts have become too secularized. So the Royal Rangers was formed to bring more of a Christian perspective to scouting because they did not feel that the Boy Scouts were meeting their religious needs.

The point of that is they did not try to change the Boy Scouts. They respected the Boy Scouts' right to believe and to operate how they were operating. But instead of trying to destroy the Boy Scouts or try to hurt the Boy Scouts, they formed their own organization based on their own beliefs. That is the direction we should be going in this country.

If people want to form their own organization, they can form it based on their own beliefs—that really is what America is supposed to be about. This amendment here simply says that a group that has a certain belief system, and has proven that their belief system leads to good citizenship, then we should be encouraging this group. We should not be discriminating against those groups going into our public school systems.

I hope we can get a bipartisan vote in favor of this amendment. I believe that in the long run this amendment will be good for America because I believe the Boy Scouts are good for America.

I yield the floor.

Mr. REID. Madam President, this is just to notify Senators, Democrats and Republicans, that when this amendment is finished, whatever time that may be, we have a number of other matters that will be completed today. Whenever this amendment is completed, we have a number of other important amendments to move to. Senator GREGG told me earlier today he has at least one other amendment that could take a little bit of time, maybe two other amendments. But this is to notify everyone we are going to work tonight until we finish this bill. If we cannot finish it late tonight, then we will come back tomorrow and finish it. It was announced as early as Monday. We are going to work until we finish this bill. I know people feel very strongly about this issue and other issues developed during the day.

We want to make sure everyone has every opportunity to speak and let the Senate know how they feel. But I think there is a time that comes when we have to vote. As my friend, Mo Udall, said in the House one time when he came to appear before a committee: Everything has been said, but not everyone has said it.

I think we may be arriving at that point in the near future on this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Madam President, it is, frankly, really a sad day when we have to be here on the floor of the Senate to defend the Boy Scouts of America as if they have done something wrong and they have to be defended.

I have seen a lot of things since I have been in this place. We have had a lot of interesting debates on a lot of interesting subjects. I sit at the desk of Daniel Webster. Daniel Webster didn't know about the Boy Scouts of America in his time. I cannot imagine what Webster would think if he were here today to listen to this debate—or Washington or Jefferson or any of the great leaders.

I rise today without equivocation to support the amendment of my friend from North Carolina, to protect one of America's treasures, the Boy Scouts of America.

I would like to call your attention to the photograph behind me during the course of these brief remarks. These are the bad people we are keeping out of our schools, these young boys. I had two sons who were Boy Scouts. I was a Boy Scout.

I can't think of anybody who is hurt to be a Boy Scout. When you talk about precluding ''the Scouts,'' the Boy Scouts from being in a school, what does that mean? Does it mean if a Boy Scout comes in in his uniform for his class, is he going to be thrown out of class and sent home? I guarantee you, if some boy came into class and created a disturbance, it is highly unlikely he would be thrown out of class under the current rules and regulations that some teachers have to face.

I am trying to be as unemotional as I can about this, but this is such an outrage. The organization, the Boy Scouts of America, has one of the most rich traditions and history in American history, in American culture for all time. How many Boy Scouts are there whose names are on that Vietnam Wall? How many Boy Scouts were in the greatest generation that Tom Brokaw talked about? How many Boy Scouts led the fight in World War I? How many?

These are the boys we want to keep from having their meetings in schools that receive billions of taxpayer dollars. I never thought I would see the day when I would have to stand on the Senate floor and go to bat for the Boy Scouts to have that right. But do you know what. Senator HELMS, I am proud to stand here with you and do it.

We need to do it. Then we will do it. I am with him.

The Boy Scouts of America was recognized by Federal charter in 1916 to provide an educational program for boys and men to build character and to train citizens—yes—to promote reverence for God and country. How horrible that must be. We are going to promote reverence for God and country in this time of political correctness. Isn't it awful that somebody might take an oath of allegiance to God and country? What are we coming to? How bad does it have to get before we wake up?

Some of the people who are standing here today in opposition to Senator HELMS on this amendment not too long ago were standing on this floor defending the right to immerse a crucifix in urine and get Federal dollars to display it as art—the same people. That is what we have come to in America. God bless us.

The largest voluntary youth organization and movement in the world—the Boy Scouts—is under siege right on the Senate floor. Six million American boys are members from a wide diversity—religious, ethnic, economic, disability, special needs, honor students, Eagle Scouts, all of it—are under siege.

A large number of Boy Scouts are sponsored by local churches. They meet in church basements.

This tradition should be revered and protected by the Federal Government, not attacked by the Federal Government. We shouldn't discriminate against an organization because it teaches boys morality.

Senator HELMS says we are going to condition Federal education money on a State or locality not discriminating against the Boy Scouts of America. And Senator HELMS is right. He is absolutely right. In your heart you know he is right.

On June 28, 2000, the Supreme Court of the United States, in the case Boy Scouts of America v. Dale, upheld the first amendment rights of Boy Scouts of America to maintain its almost century-old moral code and its standard for membership and leadership.

The Supreme Court concluded that the Boy Scouts have a right under the first amendment to set standards for membership and leadership by concluding that the first amendment protects the right of a private organization to determine its own membership.

The Senate has conditions for membership in this body. Maybe we shouldn't have any conditions. Should we be attacked by the same groups?

The Boy Scouts embrace the following oath. I want to repeat that oath. I think it has been repeated here before. But it is the central purpose of why we are here. Why does Senator HELMS need to be here to offer this amendment to protect the Boy Scouts? Why? Here is their honor code and the oath that they take:

> On my honor I will do my best
> To do my duty to God and my country
> And to obey the Scout law;
> To help other people at all times;
> To keep myself physically strong,
> mentally awake,
> and morally straight.

These boys, and boys like them, by the millions, are being told they can't even have a meeting in their school or in a school in some communities across America.

I will tell you something. Rome died from a lot less than this. When you dilute your moral code to this extent, and if this keeps up, the obituary for America is going to be written. And it is sad to see it is being written here on the floor of the Senate.

When the count is taken, I know where I want to be, and I know where Senator HELMS is going to be.

This is wrong, pure and simple. It is wrong to do this to this organization. There is an organized campaign against the Boy Scouts. It is under siege by the American Civil Liberties Union. It is attacked.

The Boy Scouts have recently suffered discrimination and unfounded accusations of prejudice resulting in discriminatory actions being taken against the organization and its members.

I know this has been said before. It is not meant to be a cheap shot. It is meant to bring up a point. Senator BYRD talked about it.

Delegates at the Democratic National Convention on August 17, 2000, booed the Boy Scouts while the Boy Scouts were leading the delegates in the Pledge of Allegiance. Not all Democrats did that. Very few Democrats did that. But they did it. No one threw them out of the convention. No one threw them out of the meeting. They sat there under their rights booing the Boy Scouts for leading their convention. If I had been a Democrat at that meeting, I would have sought them out and had them thrown out. What a sad day in America.

On September 5, 2000, in Framingham, MA, the superintendent of schools considered prohibiting the local Boy Scout troop from recruiting other Scouts on school grounds for exercising their constitutionally protected rights. Can you believe that? They cannot even recruit a Boy Scout on the grounds of Framingham, MA, schools.

You wonder why we have problems in America. Should you really be surprised when you hear that children shoot children or children commit crimes or children don't respect their parents or children don't respect their authority? What are we telling them? What message are we sending here? How bad does it have to get before America wakes up?

We are in this age of political correctness. That is what we are talking about here—political correctness.

Another shocking example of this same thing is in Robbinsdale district elementary school in Minnesota. One of the teachers in that school states that she will not let the Boy Scouts into her classroom.

Again, is that the Boy Scouts, the organization, a Boy Scout in his uniform—or a Girl Scout, for that matter?

The teacher wrote to the State attorney general:

> Schools and teachers who continue to do business as usual with the Boy Scouts of America participate in discrimination through complicity, acceptance through silence. I will not.

That was printed in the Star Tribune on September 3, 2000.

The State of Connecticut has banned contributions to the Boy Scouts—banned contributions to the Boy Scouts by State employees through a State-run charity. Can you believe that? It is unbelievable. I never thought I would live to see the day that this would happen in this country.

If Jefferson, Madison, Hamilton, and Washington aren't rolling in their graves now, I can't imagine what would ever motivate them to.

Let's look at some of the horrible, terrible things the Boy Scouts of America do.

Let me read from the Bergen County Record of May 29, 2001. This is a good example of what the Boy Scouts do:

> Americans marked Memorial Day with solemn remembrance by making pilgrimages to grave sides, bearing flowers and flags to honor soldiers who sacrificed their lives in battle.
>
> ''It means a lot to me, coming out here and seeing the veterans,'' said Boy Scout Lee Booker, 15, as he helped place miniature American flags at the foot of 46,850 veterans headstones at the Memphis National Cemetery in Tennessee.

And those boys can't meet on school grounds? And you wonder why we are losing our kids.

Is it time to defund the Boy Scouts of America? Is this the group that we want to expel from our public schools? That is what this is all about.

I applaud the Boy Scouts for all the wonderful contributions that group has provided to American society. I am proud to have an Eagle Scout on my staff—one that I know of; there may be more. Jeff Marschner is a shining example of what an important contribution the Boy Scouts of America make to all of us.

They ought to be held in esteem. When they ask to have a meeting, they ought to be asked: Which room do you want?

What have they done that is so wrong? The answer is, nothing. What they have done is so right. And they are being punished for it.

I am going to say it: Every leader in this country who takes that position—local, State, or Federal—ought to have to pay a political price for it. I would say to my critics on this: What were you doing on Memorial Day while the Boy Scouts of Tennessee were placing miniature American flags on the tombstones of Tennessee soldiers?

All persons have the right of freedom of speech and freedom of association. And the Boy Scouts have earned theirs. I hold the first amendment rights of every American in esteem. Freedom of association is fundamental. I do not support the Government attacking groups because of their membership

policies. Some membership policies I don't like. I don't like the KKK. I don't like the skinheads. I don't like those organizations. And anybody who can stand in this Senate Chamber and equate them to the Boy Scouts has a real serious problem.

If the first amendment is gutted for the cause of forcing the Boy Scouts to change their membership policies, what is next?

The Boy Scouts, as an organization, is empowered by our Constitution to determine their own membership criteria—not the Federal Government, not a State, not a local government, not a local school board, not a mayor, not a Governor, not the President, not any unelected bureaucrat in this country. Only the Boy Scouts have a right under the Constitution of the United States to determine their membership requirements for their Boy Scouts, for these boys. That is who has the obligation and the responsibility to do it, and no one else under this Constitution.

Children—boys, girls—are this Nation's most precious resource. Yet this is what we do to them in this Senate Chamber—unbelievable.

I support the Helms amendment. I have never been prouder in my entire political life than I am today to stand here with Senator JESSE HELMS in support of this amendment. I cannot think of one issue that I have ever stood here and talked about that I am more proud to do than what I am doing today. It is not discriminatory. It is fair and simple. It is to protect the Boy Scouts from discrimination, that Boy Scouts cannot be banned from schools that receive millions and millions—and billions—of dollars.

The education bill has money. This bill has money, more money than we have ever given to education from this body. And all Senator HELMS is asking is that governments that accept this money not discriminate against these young men, and young men like them, shown in this picture. Is that asking too much? I certainly hope not.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. If the other side is willing to yield back its time, I will yield back my time.

Mr. REID. We have no time to yield back, but we are ready for a vote, Madam President.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered. The question now is on agreeing to Helms amendment No. 648. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—51

Allard	Dorgan	Lugar
Allen	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Fitzgerald	Miller
Breaux	Frist	Murkowski
Brownback	Gramm	Nickles
Bunning	Grassley	Roberts
Burns	Gregg	Santorum
Byrd	Hatch	Sessions
Campbell	Helms	Shelby
Carnahan	Hollings	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Johnson	Thompson
Crapo	Kyl	Thurmond
Domenici	Lott	Warner

NAYS—49

Akaka	Edwards	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Graham	Reed
Bingaman	Hagel	Reid
Boxer	Harkin	Rockefeller
Cantwell	Inouye	Sarbanes
Carper	Jeffords	Schumer
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Corzine	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Durbin	Mikulski	

The amendment (No. 648) was agreed to.

CHANGE OF VOTE

Ms. LANDRIEU. Madam President, on rollcall vote 189, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent I be permitted to change the vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. BROWNBACK. I move to reconsider the vote.

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from West Virginia.

Mr. BYRD. Madam President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I ask unanimous consent to explain my vote. I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, the Senate is not in order. I will not proceed until it is in order. This was a very important vote.

Madam President, I want Senators to get out of the well. I am entitled to be heard, and I want other Senators to have the same respect and same entitlement.

This was not an easy vote for me. I believe just as strongly as any Senator on that side of the aisle about the rights of the Boy Scouts and about the respect we ought to show the Boy Scouts. I was ashamed and embarrassed by the actions of some people—not by the Democratic Party—by some people at the Democratic Convention who may or may not have been delegates, in showing disrespect for the Scouts.

Having said that, I had some concerns about this language, and I took those concerns to the author of the amendment, Mr. HELMS. He indicated he would try to have that language changed. Several other Members on that side of the aisle voiced their sentiments as being equal and square with mine: That the language needed to be clarified and modified.

The language was this language: ''Any other youth group.'' Similar language is used in at least one other place in the amendment.

My question was: What is the definition of ''youth group'' as it is being used in this amendment? The definition in the amendment reads as follows:

> Youth Group—the term ''youth group'' means any group or organization intended to serve young people under the age of 21.

That can be a Black Panthers group. That can be a skinhead group. That can be a Ku Klux Klan group. I do not mind speaking on that subject. I detest the Klan. I have been a member of it. That is not news. Everybody in this Senate knows that, and I do not carry that badge with pride. But I do not want the Ku Klux Klan or any other hate group in our schools. So, I thought there ought to be a clarification and better definition of ''youth group.''

I came to the floor when the vote occurred. Nobody came to me and said: With regard to your concern, we have changed the language, or, we have not. Nobody said that.

When I saw on the television screen that the vote on the amendment was in progress, I came to the floor, and I went to Senator HELMS. I said: Was there a modification of that language?

He said: No.

He was in accord with having a modification but he said, ''they didn't want it modified.'' I do not know who ''they'' were. But in any event, faced with having to vote up or down on this amendment, I voted for it, but I am still concerned that the definition of ''youth group'' was not changed. I am concerned because that request, which I think was a reasonable request, was somehow rejected by somebody. I voted for the amendment.

I take the floor now to say I hope that in conference that language will be changed. The distinguished Senator from Oregon, Mr. SMITH, earlier suggested that it be changed to mean groups that have national charters. I believe I am correct in the way he stated it—groups that are nationally chartered. That would be fine with me. But that change was not made.

I only take the floor now to explain my vote and to express my regrets that what I thought was a very reasonable request was apparently just rejected out of hand.

I hope that attention will be given in conference to changing this language to make it clear that the term ''other groups'' pertains to groups that are nationally chartered.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I ask unanimous consent that the amendment of Senator HELMS that just passed be allowed to be amended as Senator BYRD has explained it and as some Members lobbied to have it changed. I think it will be a better amendment. If it is not done here, it ought to be done in the conference committee. We all understand that. No one wants this opened up to skinheads, Nazis, the Ku Klux Klan, or any other hate group, but we want to say the standards of the Boy Scouts of America are standards and values that are valuable still.

Mr. REID. Madam President, did the Senator make a unanimous consent request?

The PRESIDING OFFICER. Yes.

Mr. REID. Reserving the right to object, we, in good faith, during the 8 weeks of this debate have been doing amendments side by side. If your side has an amendment, we have an amendment. We have been doing that and have done it 25 times. We certainly have done it the last week many times. I personally—and I don't know how anyone else feels—think that is not a bad idea as long as we have the opportunity to have our amendment debated, if we have an amendment we believe is an appropriate amendment, and we would be happy to show it to any Member who wants to see it and we have a right to vote on the Helms amendment, which has already been voted on. If you want to modify, that is fine, but we want an opportunity to have an up-or-down vote. We have done it for weeks and I don't see why this amendment should be any different.

Mr. SMITH of Oregon. I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. KENNEDY. I listened to the Senator from West Virginia. A similar amendment has already passed in the House of Representatives, so we have the House language and this language. It is identical. If we follow past precedence, there is not the flexibility to take into consideration what the Senator from West Virginia has requested. That, I think, is part of the reality in terms of the way these institutions run. They have passed a similar amendment by a voice vote, we passed an amendment, and for all intents and purposes that is what will be before the conference. If we follow the precedent, that flexibility that the Senator had mentioned would not be before the conference.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. 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. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, we have been discussing this matter over the last few moments. I ask, after I have given a description of our circumstances, that Senator BYRD be recognized for a unanimous consent agreement.

Just for the notification of our colleagues, we would then recognize Senator BOXER who has the right to offer a second-degree amendment. It is a free-standing, side-by-side amendment.

Mrs. BOXER. To my own amendment.

Mr. DASCHLE. That will be offered. Then we will also have the Sessions amendment vote.

Ms. LANDRIEU. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. May I inquire if we could amend the consent request, if Senator BYRD would allow me to be recognized for 30 seconds prior to his statement?

Mr. LOTT. Madam President, reserving the right to object, and I do not object to the request of the Senator, but just to make sure I understood, was there an original request? Did Senator DASCHLE make a unanimous consent request?

Mr. DASCHLE. I only asked Senator BYRD be recognized to make the unanimous consent request. Following that, we would go to a vote on the Sessions amendment. After the Sessions amendment is disposed of, we would recognize Senator BOXER for purposes of offering another amendment.

Mrs. BOXER. A second-degree.

Mr. LOTT. You were just announcing the intention with regard to how to proceed? The UC was to allow Senator BYRD to offer a modification, and then I believe the Senator just wanted 30 seconds to speak?

Ms. LANDRIEU. Prior to Senator BYRD.

Mr. LOTT. I withdraw my reservation.

Mr. BYRD. Madam President, may we have order in the Senate?

Madam President, in an effort to help the Senate to reach the best possible product of the amendment's status at this point, so that a consensus of minds in this body may come to a conclusion as to what in their judgment seems to be the best outcome, I ask unanimous consent that on page 2 of the amendment, section 2 titled ''equal access'' subsection (a), paragraph (2), line 12 thereof, be amended as follows: To insert the words, following the word ''group'': ''listed in title 36 of the United States Code as a patriotic society,'' and I ask unanimous consent further that I may be allowed, additionally, to amend the amendment, as modified, which is presently pending, in a second place.

The second place being on page 4 under section (C), titled ''Youth Group,'' on line 8 strike the comma following the numerals ''21'' and insert the following: ''and which is listed in title 36 of the United States Code as a patriotic society.''

So I am asking to amend the bill in two places with the amendment—I am asking to amend the pending amendment, as modified, in two places and as I have outlined.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority leader.

Mr. DASCHLE. Madam President, is it now not in order to move to the Sessions amendment?

The PRESIDING OFFICER. The Senate must first adopt the Helms amendment, as amended and modified.

Mr. DASCHLE. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 574, as modified.

The amendment (No. 574), as modified, was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Madam President, as I understand, each side now has 1 minute to make their presentation prior to the vote on the Sessions amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Alabama.

Mr. SESSIONS. Madam President, we are on the verge and so close to making a realistic and fair and just step in dealing with the complications and frustrations our school systems are wrestling with every day involving disciplinary situations with disabled students. Anyone who talks to them knows it is a very real problem.

Our legislation is a middle-ground position. It is more cautious than the Gorton amendment which got almost 50 votes. It is more modest than the House amendment that passed. It simply says, if a child is disabled and commits a violation of discipline rules that would result in discipline for them, they would be treated as any other child, unless and only after a hearing has been held to ensure that the misbehavior the child committed was not connected to that disability—because some children have emotional problems and have difficulty containing themselves. Those children would not be able to be disciplined like other students.

We think this is a fair and progressive step. I urge your support. I believe with the Vice President we would be able to pass this. I urge its consideration.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, the Senator from Iowa is not here. I will take one moment.

We have fought for 25 years to try to mainstream disabled children. I remember when there were 5 million who were kept in the closets and shut away. IDEA may not be perfect, but we have a GAO study, which is an authoritative study, that says the changes that were made 2 years ago on discipline seem to be working.

The previous vote was 50–50. We are divided.

Next year we are going to have a complete reauthorization of IDEA. Why have a major step backward in terms of assisting the children in this country?

If we have to change it, let's do it at the time we have the reauthorization—not on the basis of a 50–50 vote or 1 hour of debate and discussion on this measure.

Make no mistake about it. If we accept the Sessions amendment, history will record this as the first major step backward instead of forward with regard to disabled children.

Mr. SESSIONS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

I further announce that if present and voting, the Senator from New Hampshire (Mr. SMITH would vote ''yea.''

The PRESIDING OFFICER (Mrs. LINCOLN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—51

Allard	Enzi	McCain
Allen	Fitzgerald	McConnell
Bennett	Frist	Miller
Bond	Gramm	Murkowski
Breaux	Grassley	Nickles
Brownback	Gregg	Roberts
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Campbell	Helms	Shelby
Cochran	Hutchinson	Smith (OR)
Conrad	Hutchison	Stevens
Craig	Inhofe	Thomas
Crapo	Johnson	Thompson
Domenici	Kyl	Thurmond
Dorgan	Landrieu	Torricelli
Durbin	Lott	Voinovich
Ensign	Lugar	Warner

NAYS—47

Akaka	Cantwell	Corzine
Baucus	Carnahan	Daschle
Bayh	Carper	Dayton
Biden	Chafee	DeWine
Bingaman	Cleland	Dodd
Boxer	Clinton	Edwards
Byrd	Collins	Feingold
Feinstein	Levin	Rockefeller
Graham	Lieberman	Sarbanes
Harkin	Lincoln	Schumer
Hollings	Mikulski	Snowe
Jeffords	Murray	Specter
Kennedy	Nelson (FL)	Stabenow
Kerry	Nelson (NE)	Wellstone
Kohl	Reed	Wyden
Leahy	Reid	

NOT VOTING—2

Inouye	Smith (NH)

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing upon reconsideration to amendment No. 604 offered by the Senator from Alabama. The yeas and nays are automatic.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the matter before us, the Sessions amendment, be handled on a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. It takes unanimous consent to vitiate the yeas and nays. I ask unanimous consent that we vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 604) was agreed to.

Mr. NICKLES. Madam President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

AMENDMENT NO. 562 TO AMENDMENET NO. 358

Mrs. BOXER. Madam President, I send amendment No. 562 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 562.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding, and authorize appropriations for, part F of title I of the Elementary and Secondary Education Act of 1965)

At the end of title IX, add the following:

SEC. 902. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate makes the following findings:

(1) The afterschool programs provided through 21st Century Community Learning Centers grants are proven strategies that should be encouraged.

(2) The demand for afterschool education is very high, with over 7,000,000 children without afterschool opportunities.

(3) Afterschool programs improve education achievement and have widespread support, with over 80 percent of the American people supporting such programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should continue toward the goal of providing the necessary funding for afterschool program by appropriating the authorized level of $1,500,000,000 for fiscal year 2002 to carry out part F title I of the Elementary and Secondary Education Act of 1965; and

(2) such funding should be the benchmark for future years in order to reach the goal of providing academically enriched activities during after school hours for the 7,000,000 children in need.

AMENDMENT NO. 803 TO AMENDMENT NO. 562

Mrs. BOXER. Madam President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 803 to amendment No. 562.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1. SHORT TITLE.

This title may be cited as the ''Equal Access to Public School Facilities Act.''

SEC. 2. EQUAL ACCESS.

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Mrs. BOXER. Madam President, I need literally a minute.

In this amendment, we are codifying what the Supreme Court has said, and that is every group, including the Boy Scouts, has equal access to school facilities. It is very simple. It is very straightforward. It stays away from the can of worms we believe was opened in the Helms amendment.

I hope all of our colleagues, 100 strong, will vote in favor of this simple, straightforward statement that all groups, regardless of their viewpoint, be allowed equal access to the public schools.

I yield the floor. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise in opposition to this amendment, and I wish to express some concerns regarding it.

We just adopted an amendment which I think addressed the issue at the core, and that was concerning the treatment of the Boy Scouts of America.

The Boy Scouts of America, as many people know, has been recently pursued by a number of organizations saying they were not going to allow them to

participate and use public schools for Boy Scout meetings. That was the direction of the amendment on which we worked.

I will point out what some of the organizations and schools are pursuing with the Boy Scouts. They are saying: Look, we do not want to allow them to have access to our schools. We do not want to allow them to meet.

Listen to some of these examples:

On May 11, 2001, the Associated Press reported the Iowa City School Board voted to prohibit the Boy Scouts of America from distributing any information in schools because of the Scouts membership criteria. Greg Shields, the national spokesman for Boy Scouts of America, said:

> We simply ask to be treated the same way as any other private organization . . . [and] that our free speech and right to assemble be respected just as we respect those rights of others.

On February 8, 2001, the Asbury Park Press reported that the State of New Jersey was considering a rule change that would bar school districts from renting space to the Boy Scouts because of their position on homosexuality.

On February 7, 2001, the Arizona Republic reported that the Sunnyside School District in Tucson decided to charge the Boy Scouts of America fees to use school facilities, even though no other groups have to pay fees.

The ACLU executive director said:

> While Boy Scouts, atheists, Nazis, even satanists have the right to express their views, Government should not use public money to promote them.

On January 28, 2001, the Boston Globe reported that the Acton School Committee in Massachusetts decided to prevent the Boy Scouts from distributing literature at school, even though other groups can do so. Defending its actions, Acton School Committee cited Massachusetts law which says schools cannot sponsor the Boy Scouts.

On January 14, 2001, the New York Times reported that New York's Chappaqua School District officials were able to coerce two local Boy Scout troops to sign a document that denounced the national policies of the Boy Scouts of America as a condition for allowing these troops access to school property.

I have several more pages of examples. The reason I wanted to point these out is to show what the problem is, and that is, the Boy Scouts are being threatened to have access to public schools denied. That is the reason for the amendment. That was the reason for the Helms amendment.

The Boy Scouts is a 90-year-old organization with millions of members in the country. My guess is a fair number of Members of this body were Boy Scouts or their children are Boy Scouts. Senator NELSON of Nebraska was an Eagle Scout. Senator SMITH of Oregon was an Eagle Scout. Senator ENZI's son was an Eagle Scout. Senator LANDRIEU's family members were Eagle Scouts.

My point in saying this is here is an organization that has been next to God and country and mom and apple pie for as long as we can think of, and it is being pursued. It is being pursued, being castigated. The ACLU executive director mentioned the Boy Scouts in the same sentence as atheists, Nazis, and satanists. They are trying to categorize them in a dark category, a negative category, and all they want to do is do a good deed daily. That is their motto. They are being pursued.

What did we do? What was the response this body voted on by a bare margin of victory? This body said we are not going to tolerate them being pursued or kept out of school buildings. We said in this amendment: If you are going to try to keep them out of school buildings, then we are going to review the Federal funding for you because we so strongly believe in this organization—90 years old, basic value training, character training in which many people in this body participated.

The Senator from California then proposes an additional amendment apparently trying to address much of the same topic. In that amendment, she puts forward:

> No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access to meet after school in designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable viewpoint concerning sexual orientation.

She is trying to cover it. The problem is it does not cover it. It does not cover this for the Boy Scouts. It does not have any enforcement mechanism for the Boy Scouts. They are going to have to go into court with this language the same as they would right now to try to get access to public schools in school districts across the country that are trying to deny them access.

What we did instead was flip the burden. We flipped it to the school districts, saying: If you are going to deny the Boy Scouts, you are going to have to state why and clearly to the Federal educational agency if you are going to continue to get Federal funds. We put the onus and burden on the school districts in the Helms amendment, which is the proper and appropriate place to put it, instead of draining these private coffers of the Boy Scouts of America to pursue lawsuit after lawsuit in various jurisdictions to simply get access to public schools.

What do you want to do? The Boxer amendment, while on its face would look fine, puts the burden back on the Boy Scouts. It says the Boy Scouts are going to have to go to court to get access. You have this law, yes; you have the Supreme Court ruling; but you are going to have to go to court and spend thousands and, at the end of the day, millions of dollars to get access to public schools for the Boy Scouts of America. Let's deny apple pie access to public schools next. They are going to make the Boy Scouts spend millions of dollars to get in and have a meeting at the public school.

That is not appropriate. That is not the right place, to put this burden on the Boy Scouts. They raise private moneys to do character education and do what all of us laud, I believe, in this body. I believe all of us laud the Boy Scouts and what they are after and what they are doing. Maybe that is not the case. Maybe some do not. I hope everybody supports the Boy Scouts.

This is not the right way to go. The Boxer amendment puts the burden back on the Boy Scouts to spend millions of dollars to fight their way into public schools. We should not do that. We do not need to do that. I would rather the Boy Scouts spend millions of dollars on camping, doing things as a scouting troop, as my son did when he was a part of the Boy Scouts, as some of the Eagle Scouts here did. I would rather they buy campgrounds and land to explore and take care of underprivileged youth, as Boy Scouts do across the country. I would rather they take underprivileged youth from inner cities as part of the Boy Scouts, take them to the countryside and camp and spend millions of dollars doing that rather than millions of dollars in court simply to gain access to the public educational institutions in our country for which we provide substantial funding.

That is why this amendment is flawed and should fail and why I oppose this amendment.

I urge my colleagues to oppose and vote against this amendment because we are shifting the burden back to the Boy Scouts and making them fight their way into the public schools. We really do not need to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. With all due respect to my distinguished colleague, I don't quite understand the argument that the Boy Scouts will have to fight their way into the schools. Constitutionally, they cannot be denied access to the schools now. They cannot be denied access. I suspect if one argues that you are going to have to fight your way in, there is the implication a lot of schools are trying to keep the Boy Scouts out.

Second, since Brown v. The Board, you cannot keep black kids from going to school. If we had an amendment that took the language out of Brown, parroted it, as my distinguished colleague from California does, from the 1998 Supreme Court case that sets out this principle—we cannot do this—it means every black child has to spend thousands of dollars to fight their way into the schools.

One of the things that distinguishes the United States of America, when the Supreme Court of the United States speaks clearly, and particularly when the Senate then legislatively parrots the exact language that the Supreme Court uses—guess what. The American

people, even those who do not agree, obey. That is the pattern we have in this country.

The idea that there will be Boy Scouts—and I was a Boy Scout and proud of it; I was an Explorer Scout; I support the Scouts; I will match my merit badges against my colleague's merit badges—Boy Scouts standing with tin cups in front of schools saying, ''We need to raise money to go to Federal court to make sure we can get in,'' is not going to happen. Theoretically, it could happen, just as theoretically today a school in the State of Delaware, or Kansas, could say, ''We will not let black folks in.'' Theoretically, that can happen. Guess what. The black parents have to go to court.

This is as much a threat to the Boy Scouts having to raise millions and millions of dollars as black folks having to raise millions and millions to get access to public schools. There is a constitutional amendment.

My friend—and he knows he is my friend—Senator HELMS from North Carolina, has an amendment that I voted against. I think it got pretty well cleaned up by the Byrd amendment, but it has some arcane problems. I will not take the time of Senators and bore them, but the reason it is probably still unconstitutional, although I have no objection to the way it got cleaned up—the reason it is arguably still unconstitutional is it is not content neutral because—and this is a constitutional principle—we will deny a school district funds—money—if in fact they discriminate, they violate the Constitution, by not letting in Boy Scouts or like organizations that determine their leadership based on criteria that are their own, to which others may object.

The problem with that is, technically, constitutionally, it does not include every group in the world. It does not include every group in the world. It is no longer viewpoint neutral. It says we are only going to penalize school districts that discriminate against one type of organization as opposed to all. I know that is not my friend's intention, but that is why the amendment is still probably flawed, although I am willing to take a chance on it.

As I said to my friend from California, I am not sure this amendment is needed. I will support it. I think we all should support it. All we are doing is supporting the Supreme Court decision.

On this idea that we have to go further, then it seems to me you should say, okay, we will cut off all moneys to all schools that violate the Supreme Court's rulings that you are not allowed to have organized prayer. How about that one? Does anybody want to sign up on that one? Same folks who want to sign up on this want to sign up on that? I don't think so. I don't think we will have people running across the aisle saying, look, if that school district or that school allowed organized prayer—and I am not opposed to prayer, obviously, but that is what the Supreme Court said, in a Supreme Court decision.

What is done if a school violates the decision? Bring an action. Very few schools violate. But to make the Helms amendment content neutral—and I did not want to start playing games, and I know occasionally it is suggested I am too constitutional. The mistake I make is I teach constitutional law. My mother would say a little bit of knowledge is a dangerous thing.

The truth is, if you wanted to make the Helms amendment pass constitutional muster, you could arguably say, OK, as long as you do not discriminate, you deny school funds to any school district that violated any constitutional right of anybody. That is why technically it is not constitutional. It doesn't do that. It protects only one viewpoint as opposed to all viewpoints.

I don't want to get into that because the truth is, we all know on this floor, nobody, if we are a private citizen, is going to go home to the school district and say, by the way, I don't like the fact that the Boy Scouts don't allow homosexual Scout leaders so I will go to the school board meeting tomorrow and insist they be blocked access to my school.

This is a bit of a charade. Everybody on the floor supports the Boy Scouts. We may disagree whether they should or should not allow homosexuals to be members. And I think they should. We may disagree on that. But no one disagrees on the ruling of the Supreme Court which says you cannot discriminate against them because the Court ruled it is OK for this organization to say we don't want homosexual Scout leaders. That is what the Supreme Court said. It is OK. I accept that. It is the Supreme Court of the United States of America.

I also accept the fact that the Supreme Court says you cannot discriminate against the Boy Scouts because of the decision they made.

I think it is Kafkaesque. We are arguing about something on which we don't disagree. This is about politics. This is a political game we are playing. It is a joke—who is more Boy Scout. I am as big a Boy Scout as anyone here. We can all compare merit badges and our support for the Boy Scouts. So let's not make a mockery of this thing.

The fact is there is a technical, legal, constitutional argument that the last amendment is unconstitutional. That is the core of the objection of those who voted for it before it got amended. After it has been amended, it is arguably still unconstitutional. I am willing to take a chance on it. I am satisfied to let it go at that.

This clearly is constitutional. This clearly restates what I thought we all want. No school district can deny Boy Scouts access if they have access for anybody.

Again, I conclude by saying the idea this could cost the Boy Scouts millions of dollars I find a bit of a stretch.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I rise in opposition to the amendment and point out one of the real values of Boy Scouts is that it isn't designed to be competitive. It isn't designed to see who is the best Boy Scout, who has the most merit badges, who has better merit badges. It is designed to teach young men good values. It is designed to teach young men about the world. It is designed to teach young men about possible careers. That is being thwarted.

I will not repeat everything I said this morning. I am sure that is a relief. I hope Members look at the record. I am convinced they did not pay attention when I spoke earlier. An important point: The record of five cases a year ago, where the Boy Scouts had to go to court. We are not talking hypothetical; we are not talking about the possibility that somebody's constitutional rights were violated. We are talking about actual situations. Some of those will be resolved over the years at great cost. We are not talking hypothetical on the cost either.

I am not going to pretend to be a constitutional lawyer because I am one of the few people here who is not a lawyer at all. But I was a Boy Scout. I am watching what is happening to the Boy Scouts in this country.

Five times in the year 2000, this instance came up. I have to tell you, already this year, eight times. That is just ones that I was able to find, which means they are ones that made national press. It doesn't mean it is all the instances of it happening.

The five last year and the eight this year are cases where it happened in school. I am not talking about all of the discrimination that there is out there against the Boy Scouts. I am just talking about in school.

We cleared up the definitional problem that I think would have made that a near unanimous vote before. It should have made it a near unanimous vote before. Now we have an amendment that tries to eliminate anything that the Helms amendment could have done. Here is how it eliminates it. It does it in two ways.

It eliminates the enforcement mechanism. There was not anything in the Helms amendment that automatically took money away from schools. There was a review process. If the review process said they discriminated, there was the possibility that they would lose their funds.

Enforcement: There is no enforcement in this amendment. It may say what the Constitution says, but it doesn't provide enforcement. The amendment we agreed to before, that provides enforcement.

The second problem is this one allows discrimination against the Boy Scouts. The wording in here does not preclude—this is a big problem with the school—does not preclude charging them exorbitant rates. They would still

have equal access; they would have, depending on how you took it to court, a fair opportunity. But it would not be the same thing as in the Helms amendment where you could not be charged discriminatory fees to keep the Scouts out. Every one of those things would require another court action.

I am not an attorney. I am told a lot, when I go back to Wyoming, that one of the problems in this country is we have too many attorneys. They talk about the old towns in the West where the first attorney came to town and he went broke. In other towns the first attorney came to town, he was accompanied by another attorney, and they both did very well. That is what is happening to the Boy Scouts. We have enough attorneys; they can all do very well at the expense of the Boy Scouts.

The dollars being spent on litigation ought to be spent on good programs for youth. We have been talking throughout the education bill about the need to do things for youth, the need to have kids taken care of after school. This is an organization where you do not take care of the kids after school, the kids help take care of us after school. We are talking about a communitarianism group, a group focused on helping their community through their volunteer efforts.

In order to get your Eagle award you have to do a community project—not a personal project, not a family project. It has to be a community project. So these kids get to find out what voluntarism is. It is not voluntarism for them. It is that grand distinction; it is for other people, that chance to do something for other people.

We need to make sure every time we can get a free program such as the Boy Scouts that will teach character and take care of the community, we do everything we can to promote it. We have taken care of this through the Helms amendment. We can destroy it through the Boxer amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, as soon as Senator REID is done, I will claim the floor.

Mr. REID. Madam President, I wanted to ask a question of the manager. I am speaking to a Chamber empty on the minority side.

The question we have on this side is, When, if at all, are we going to vote on this? Does anybody know? Maybe one of the managers is in the back. It is now 4 o'clock, approximately. We have an amendment that says:

> No public elementary school, public secondary school, local educational agency, or State education agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable viewpoint concerning sexual orientation.

A little different from my friend from Wyoming, I am a lawyer. If there is something wrong with this legally, I suggest voting against it as some did on the underlying amendment that passed. It does not seem to me, at this late time, we are going to benefit by continuing to talk about this. So I would like to get something from the minority.

This morning I talked to Senator HELMS. He said he wanted 4 more hours. That at least gives people an idea how much time it will take. Does anyone have any idea how much longer the minority wishes to debate this 1-paragraph amendment?

Mr. GRAMM. Madam President, as far as I am aware, I am the last speaker. I was just waiting to get an opportunity to speak.

I do not know. There may be someone else over here who is welling up in their chest with a speech, but as far as I know, I am it.

Mr. REID. I will say to my friend, if they are not now, they will after your speech.

Mr. GRAMM. Maybe there will be a rush of people on your side, although I do not think so. I would not want to defend this amendment.

Mr. REID. The Senator from California yielded to me. I apologize to my friend from Texas. I return the floor to the Senator from California.

Mrs. BOXER. I say thank you to my friend from Texas. I will only speak for about 60 seconds, and then I am happy to yield the floor.

There are some days when I wonder where I am and what I am doing. This is really one of those days.

I have an amendment that simply codifies a Court decision that was a victory for the Boy Scouts of America. When it was announced, everyone said: OK, in our Nation, regardless of an organization's viewpoint, they have a right to equal access to our public schools; freedom of speech. For those people, and I count myself among them, who believe we are all God's children, and I abhor discrimination against anyone for any reason, including their sexual orientation, I thought: This is tough because if a school district really has a strong feeling and they believe this to be a fight for civil rights, they are still going to have to let the Boy Scouts in. But that is America. We allow equal access and that is the way it is.

Now I have an amendment that simply guarantees this equal access, that says the Senate agrees on equal access for all groups, whatever their view is on sexual orientation. And I have people who stand up and say I am undoing the Boy Scouts.

Again, my most enduring memory of my little girl, who is now a mother herself, is her in her little outfit when she was a little Brownie, and the character building that went with that. So no one can get up on the other side and say Members on this side do not care. We do care.

This amendment, again—and then I will yield the floor to my friend because I know he has reasons that he is against this, and I am interested to hear his explanation—simply says what the Supreme Court said: Equal access for the Boy Scouts to every single public school in America because every group, regardless of their viewpoint, has a right to have such equal access.

So I am kind of glad I proposed this amendment. I am kind of stunned that anyone would be against it. But that is their right, their privilege. As a matter of fact, it is their duty if they find something wrong with it. But I thought the Supreme Court decision was cheered by the Boy Scouts, and I am a little stunned that my Republican friends somehow do not view it that way.

I hope we will have a bipartisan vote in favor of this amendment.

I yield the floor.

Mr. GRAMM. Madam President, if someone showed up from Mars and listened to this discussion, I am sure they would be convinced that this was somehow a simple amendment that was protecting the Boy Scouts. But they would be convinced only if they showed up in the last 30 minutes, because we spent much of this day debating and voting on an amendment by Senator HELMS that said if a school system denied access of facilities on a nondiscriminatory basis to the Boy Scouts of America, they would lose Federal funds.

In listening to our dear colleague from California, you would think Boy Scouts using public schools would be a noncontroversial amendment. Maybe if you came from Mars 30 minutes ago you would be convinced of that. But if you came from Mars an hour ago, you would realize that after a lengthy debate 49 Members of the Senate voted to not deny Federal funds to school systems that discriminate against the Boy Scouts of America. We had a vote on exactly this subject. The vote was 51–49.

What is wrong with the amendment that is before us? There are several things that are wrong with it. I think I can explain it pretty simply.

First of all, we have an unequivocal statement in the bill right now with a Helms amendment that says you lose Federal funds if you deny the Boy Scouts of America the ability to use your facilities after school on a nondiscriminatory basis.

How does the Helms amendment work? It has an enforcement mechanism. That enforcement mechanism is, you lose Federal funds. So the Boy Scouts of America don't have to go out and hire a lawyer, go to the district court, the circuit court, and the Supreme Court to get to use the local schools for Scout meetings after school. The Helms amendment has an enforcement mechanism in it.

Second, the Helms amendment says the Boy Scouts can use the schoolhouse on a nondiscriminatory basis, which means they cannot be charged a higher fee than anybody else. They cannot face separate rules than anybody else, where they could be denied

the right to hand out material, for example. That is the Helms amendment. That is the position of the education bill as it now stands.

We voted on that issue. The vote was 51–49. Where I come from, that is about as close as you can get and have a determinant result.

Now in comes this amendment which says no public elementary school or public secondary school or local education agency or State agency may deny equal access. No one is opposed to this freestanding, but this now clouds the position of the underlying bill.

Why is this amendment a very weak amendment which does virtually nothing to protect the Boy Scouts? Let me explain why.

First of all, there is no enforcement mechanism. Unlike the Helms amendment, which is currently part of this bill, there is no enforcement mechanism if a school violates the law. What would that force the Boy Scouts of America to do? It would force the local troop to hire a lawyer and to go to court. You could literally dissipate the assets of the Boy Scouts of America in trying to enforce a bill that has no enforcement clause in it.

The amendment which is now in the bill, which is undercut by adding this amendment to it, has an enforcement mechanism, because you lose funding, and any school faced with giving up Federal funding is going to allow the Boy Scouts to use their facility.

Second, this amendment does not guarantee that the Boy Scouts would be able to use the facility on an equal basis. They couldn't discriminate against the Boy Scouts or anybody else in terms of using it. But it does not have a provision, as the Helms amendment does, to guarantee that you don't have to pay a higher fee or that you wouldn't get to use it on an equal basis or you wouldn't be able to hand out materials

I am not saying this is a bad amendment. If this had been offered freestanding, if we had not debated the other amendment all day long, I think some might have found some merit in it.

My point is, we have a provision in the bill that has an enforcement mechanism, which this does not. We have an unequivocal statement in the bill that was passed 51–49. My basic position is that this actually weakens the bill by putting two provisions in it, one which is strong and enforceable and has an enforcement mechanism, and one which does not.

Therefore, my view is, with all due respect, that we have already decided this on a 51–49 vote, and if your objective is to guarantee that the Boy Scouts of America get to use the schoolhouse like other organizations, then the thing to do would be to leave the provision which is currently in the bill there and to reject this amendment.

If we adopt this amendment, then we have two amendments in the bill that are very different. Then you are going to leave it up to conferees to decide which one they want to take.

If your objective is to have the strongest possible language for the Boy Scouts, I assert—this is a free country, and people have their own opinions—that the way to keep the strongest language is to not dilute it by putting weaker language without an enforcement mechanism next to it. With all due respect, that is why I am going to vote no on it.

I would be very happy to yield to my dear friend.

Mr. BIDEN. Madam President, if the Senator will yield for a brief comment and question, my objective is to make sure the Boy Scouts have access to the school.

My worry is, having been the guy who wrote the statutory language on flag burning, the Supreme Court is going to rule unconstitutional the Helms amendment, if you pass it. Ask any conservative or liberal lawyer. There is a 60-percent chance that will happen.

I view it in the exact opposite way, although approaching it with the same objective as my friend from Texas does. The reason to include this other provision is to have a fail-safe constitutional guarantee because what the Court is going to say on the Helms amendment—which I support as amended—is the following. It is going to say that you do not have a guarantee to take away funds from any school district that denies homosexual organizations the right to be in the school. You do not deny funds to any organization or any school that denies or permits prayer in school, which is unconstitutional.

The Court is going to look at it and say it is not content neutral. That is what I mean. I know my friend from Texas knows as well. That is why—it is not content neutral—the same rationale that declared my constitutional statute against flag burning unconstitutional. It was not content neutral.

I argue, for those of you who truly want to make sure the Boy Scouts have access, even if you voted for and support the Helms amendment—which I think is a reasonable position—you should vote for this amendment as well because it guarantees you double protection.

This is clearly, unequivocally constitutional. The Helms amendment, as amended, is unquestionably constitutional.

I yield the floor. I thank my colleague.

Mr. GRAMM. Madam President, responding very briefly, first of all, if you believe a provision is unconstitutional, in my opinion, you ought to vote against it. We sort of hide behind this idea of ''let the Supreme Court decide.'' But when we put our hand on the Bible and swear to uphold, protect, and defend the Constitution, in my opinion, we are swearing to do that.

I personally do not believe the Helms amendment is unconstitutional. We have passed amendments and bills all the time that deny or grant Federal funds based on what a school system does. But everybody has their own opinion about that.

My basic position is that the Helms amendment is quite strong and has an enforcement mechanism. This amendment would require that the Boy Scout troops all over America get lawyers and go to court on an individual basis. It would be really unenforceable, except with the expenditure of tremendous amounts of money that the Boy Scouts don't have.

I think we have a strong measure in the bill now. Fifty-one Members voted for it. My suggestion is, keep it strong if you want the Boy Scouts in schools, and I would vote no on this. Obviously, people have other opinions. That is why——

Mr. NICKLES. Will the Senator from Texas yield for a question?

Mr. GRAMM. I am happy to yield.

Mr. NICKLES. I appreciate the Senator yielding. I also appreciate the discussion on the amendment.

I may be off base, but I am reading the amendment, and it says:

> . . . State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Maybe I am misreading that, but it looks to me as if it is an invitation for gay activist groups, for all kinds of groups, to meet. If you give access to the Boy Scouts, then you have to give access to gay activists in elementary schools, grade schools, schools up to the 12th grade, senior high schools.

Mr. GRAMM. May I respond to that?

Mr. NICKLES. Please do.

Mr. GRAMM. Let me respond by saying, remember Senator BYRD got up and asked that we change the Helms amendment because it had language in it that said ''or other groups.'' So the argument was made by Senator BYRD that the language in the Helms amendment that said ''other groups'' was so vague that it could include Nazis, skinheads.

My point is, this language is at least as broad as the language we took out of the Helms amendment because this requires that they open it up to any youth group, including the Boy Scouts. And the question is, Do we want to force public schools to open up to skinheads? Or to the Ku Klux Klan? I do not think we do.

Senator BYRD made the point. I supported him in changing the Helms amendment because it said: Boy Scouts or other groups. And we made that change by unanimous consent.

Now we have this amendment before us that says that we open it up ''to any youth group, including the Boy Scouts'' without regard to their view on sexual orientation. But what about their view on America or race or numerous other things?

I am saying that the criticism Senator BYRD raised of the Helms amendment—that it opened it up for all these hate groups—that same criticism can, and I think should, be leveled against this amendment. Maybe it should be corrected by modifying these other youth groups to assure they are groups that have a Federal patent, for example.

But I simply say that the point Senator BYRD made was as valid against this amendment as it was against the Helms amendment and we changed the Helms amendment.

AMENDMENT NO. 803, AS MODIFIED

Mrs. BOXER. Mr. President, I ask unanimous consent to make that modification, as we allowed that modification to be made in the Helms amendment, to mirror that.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Mr. BROWNBACK. Reserving the right to object.

Mr. GRAMM. No, let's not object.

Mr. BROWNBACK. I just want to understand.

Mrs. BOXER. Instead of saying ''other youth groups,'' we would say that have a national charter. It would mirror the Helms amendment.

Mr. BROWNBACK. OK. So you would insert that language? You would strike the language ''any other youth group'' and instead insert those in section 36?

Mrs. BOXER. That is absolutely correct. We would do it the same way we allowed you to modify yours.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. 1. SHORT TITLE

This title may be cited as the ''Equal Access to Public School Facilities Act.''

SEC. 2. EQUAL ACCESS

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, listed in title 36 of the U.S. Code as a patriotic society, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Mrs. BOXER. I thank my colleague for making that point.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I am glad that correction was made, but that does not change any of the other points I made. There is no enforcement mechanism here. We have a provision in the bill that does have an enforcement mechanism. So we are weakening our commitment to it by putting this amendment in the bill.

Secondly, we do not have any guarantees that the Boy Scouts—while they might be permitted to come to the school grounds, they might be charged a higher fee or separate conditions may be imposed on them. And for both those reasons, I believe this amendment ought to be rejected.

We have already acted on it. It was a tough vote. It was 51–49 as to who wanted to guarantee the right to the Boy Scouts. I think we have spoken. I think this is a weaker amendment.

I hope we will not move away from the strong, unequivocal position we took that the Boy Scouts of America, and their commitment to God and country, is a commitment we believe belongs in every schoolhouse in America where they want to operate. So I urge my colleagues to reject the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, this week, this month, we have been seeking to redefine the role of the Federal Government in education in our country.

For much of this day we have spent our time in this Chamber trying to make sure that Boy Scouts have the opportunity to have their meetings and their activities in our public schools.

As a number of my colleagues, I was a Boy Scout. As a number of our colleagues, I am the father of not one Boy Scout but two Boy Scouts. One just made Star this past week, two steps away from Eagle. The other guy is a new guy, brand new, just was a Weeblo, just crossed over. He is going camping tomorrow night with Troop 67 to Lum's Pond outside Newark, DE.

My friends, we have talked about this long enough today. I suggest that we call a halt to this debate and go ahead and vote. There are those of us who want to go camping with the Boy Scouts this weekend. I don't want to be here tomorrow night talking about this issue; I want to be camping.

Mr. REID. I would ask we vote.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I have a couple comments I would like to make regarding this amendment.

We have talked in the abstract on this issue of: Will the Boy Scouts have to sue to get into schools or will they not? There have been some allegations made. Several Members have said this is not the case.

I want to put a real case in front of us. On January 11, 2001, the News & Observer reported that the Chapel Hill-Carroboro school board voted to give Scouts until June to either go against the rule of their organization or lose their sponsorship and meeting places in schools.

That was January of this year. That school board says: By June, you either change—go against the Boy Scouts organization—or lose your privileges to get into the schools.

We have two different proposals in front of us: the Helms amendment that was adopted and the Boxer amendment that is being proposed.

Under the Helms amendment that was adopted, the school board in this district would be the one that would have to say: This is why we are blocking the Boy Scouts from being in this school. This is what we are doing. And if they don't, if they don't have the rationale, then they are going to lose their Federal funding.

Under the Boxer amendment, which is basically the current law, the Boy Scouts have to sue to say: We have a right to be in this school. That is the law today. The Boxer amendment just basically renews the law as it is currently today. The Boy Scouts would have to sue to say: Look, we are not going to go against our Federal charter, and we still want into the school. This is current law, what this school district did. The Boxer amendment basically puts forward current law again. So the Boy Scouts would have to hire a bunch of lawyers to go against the school district—in this situation as well as in hundreds of thousands of situations across the country—to get into the school.

That is a real live case. That is an example of what we are talking about. The Boxer amendment does not cure that.

On the other hand, the Helms amendment that was adopted—by a very tight vote, a close vote—would say that the Department of Education goes to the Chapel Hill School District and says: Why are you blocking the Boy Scouts? And if you are going to continue down this road, we are going to pull Federal funding. So then it is on the school districts, in that particular case, to defend as to why they are blocking the Boy Scouts or they will get their Federal funding pulled.

The Boy Scouts have an access to be able to get in. They have a tool to be able to get there. On the other side, they have to fight their way through court. And for those who are saying: You are dreaming up cases, here is an example:

I read five others when I took the floor earlier. There are more that I could read. The simple point of this is, thankfully, the amendment is being changed some, so it is not all organizations—skinheads and others, but the fact of it is, who are you going to put the burden on, on the school district or are you going to put it on the Boy Scouts?

The Boxer amendment puts it on the Boy Scouts. The Helms amendment puts it on the school district. I hope we will all say we want the Boy Scouts in the schools. We don't want to charge them a bunch of money to get there. We don't want to charge undue fees. We don't want to charge them more to be able to get into the schools. That is the point.

I urge my colleagues to vote against the Boxer amendment, if they support the Boy Scouts and keeping them from having to spend a lot of money just to get into the schools, places where they presently deserve to be.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 803, as modified.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—52

Akaka	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Graham	Reed
Breaux	Harkin	Reid
Cantwell	Hutchison	Rockefeller
Carnahan	Jeffords	Sarbanes
Carper	Johnson	Schumer
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	
Dodd	Lincoln	

NAYS—47

Allard	Enzi	McConnell
Allen	Fitzgerald	Murkowski
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Byrd	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hollings	Stevens
Collins	Hutchinson	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	

NOT VOTING—1

Inouye

The amendment (No. 803), as modified, was agreed to.

Mrs. BOXER. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 562, as amended.

The amendment (No. 562), as amended, was agreed to.

Mr. KENNEDY. Mr. President, this might not be the case, but there is a possibility that it might be the case, and that is, to my knowledge, Senator CLINTON is going to speak for 1 to 2 minutes on her amendment, and I understand it is going to be accepted.

I suggest the absence of a quorum.

Mr. DOMENICI. Will the Senator let me speak?

Mr. KENNEDY. I withhold the request.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise today to discuss the Better Education for Students and Teachers Act.

Education no longer simply involves students learning the fundamentals of reading, writing, and arithmetic. Rather, students must possess the resources to compete and succeed as we proceed into the new, highly technical millennium. The computer and the Internet have become integrated into every aspect of our lives, and are becoming essential teaching tools in our schools and a basic component of any classroom.

To meet this challenge, we must strive for innovative ideas and to determine exactly how we can maximize the Federal Government's resources because: Even on its best day the Federal Government can never be a replacement for local administrators, educators, and parents.

Simply put, New Mexicans are in a far better position to know exactly what our schools and students need than government officials here in Washington.

Most Washingtonians probably do not know the Corona School District has 82 students, the Deming School District has 5,300 students, and the Albuquerque School District has 85,000 students. Additionally, the Gallup School District encompasses nearly 5,000 square miles, an area greater than Rhode Island and Delaware combined.

My point is simple, a one-size-fits-all approach cannot work in New Mexico and will not work in many areas of our country. Consequently, we must have solutions that are flexible and meet the diverse needs of our States, school districts, and schools.

I want to take a couple of minutes and provide my perspective on how we arrive at the point we are today with the BEST bill.

Not too long ago during the mid 1990's a number of us came to the conclusion that the current K–12 education status quo could no longer be maintained. I think this realization may have been spurred by Senator FRIST's excellent work as the chair of the Senate Budget Committee Task Force on Education. The task force produced: ''Prospects for Reform: The State of American Education and the Federal role.''

The report asked the simple question of ''how well are our children doing?'' The answer was mediocre at best because student achievement had stagnated over the past two decades even though America had established a record of near universal access and completion of high school. Thus, the report concluded that we must address the issue of a quality educational system. In other words the need for academic competence and rigor.

Building upon the excellent work of the Task Force, Senator FRIST soon introduced the Education Flexibility Partnership Act of 1999 commonly referred to as Ed-Flex. The bill simply said: one size does not fit all and thus, States should be allowed to waive-out of the regulations pertaining to certain Federal K–12 education programs.

Ed-Flex already existed as part of a demonstration program and Senator FRIST's bill merely sought to provide all 50 States within that same flexibility. The Senate passed the bill overwhelmingly by a vote of 98–1 and within a month the President had signed the measure into law. Unfortunately, after the passage of Ed-Flex for a variety of reasons there was not any further fundamental changes made to our K–12 system. Instead, since the last reauthorization of the ESEA in 1994 there is no approach that we learned is a complete failure: merely providing more funding.

In 1996 the Federal Government spend about $23 billion on education and within a few short years the number ballooned to over $42 billion in FY 2001. The logical conclusion is that a near doubling of educational funding would result in dramatic improvements in student achievement. Sadly, for all of our funding we simply do not have the matching results.

For instance, in 1996 the average reading score for a 4th grader was 212 and the Federal Government spent about $11 billion on the ESEA. Five years later, Federal spending on the ESEA has nearly doubled to $20 million, while the average reading score of a 4th grader remained at 212.

In New Mexico, the number of 4th graders testing at or above proficient in reading actually fell from 23 percent in 1992 to 22 percent in 1998. I submit that we are not receiving a very good return on our investment, a near doubling of funding with no corresponding improvement. Imagine savings a greater and greater portion of your paycheck each week and after 5 years actually having less money. I think it is fair to say that very few individuals would stand for these results, if instead of students we were talking about our retirement savings.

Thus, we are now debating the BEST bill because many of us believe we simply must have a new approach to measuring academic success. The bill fundamentally alters the practice of Washington deciding the best educational practices and then distributing increasingly greater and greater sums of money without any accountability.

Make no mistake, we have not abandoned our commitment to providing the necessary resources to our States and school districts. In fiscal year 2001 ESEA spending totaled $18.4 billion.

President Bush's fiscal year 2002 budget proposal requested a $19.1 billion authorization for ESEA for fiscal year 2002, a 9-percent increase.

Building upon the President's proposal, the FY 2002 budget resolution includes the President's 9-percent increase in federal education spending for reading education, the Individuals and Disabilities Education Act, IDEA, and teacher training.

I think it is also important to note that on May 3 when the Senate began debate, the BEST bill already authorized $27.7 billion for ESEA in FY 2002, a 57-percent increase over 2001 and nearly

$190 billion over the authorization period of FY 2002–2008.

If one does not believe that is enough then you will be interested to hear how much spending we have added since May 3:

$11 billion in ESEA and other education spending for a total of $38.8 billion in FY 2002, an increase of 120 percent over FY 2001.

$211 billion in ESEA and other education spending for a total of $416 billion over the seven year authorization period of the bill.

And of that total, $112 billion is mandatory spending under the Individuals with Disabilities Education Act.

With the preceding as a backdrop, I believe the BEST bill follows the President's promise to leave no child behind by ensuring academic success through a fresh approach to education like: Accountability.

Our schools will be held accountable for their progress in educating our children through high standards, testing, and consequences for failure.

Every child in grades 3–8 will be tested in reading and math proficiency annually. In New Mexico alone about 151,000 students will be tested. Also, the State will receive an additional $4.5 million next year and more than $33 million over the next 7 years to offset any new costs.

Instead of simply continuing to receive increased Federal funding in the face of failure, schools will now face consequences for persistent failure.

Schools failing to demonstrate improvement will face corrective action, parents will be given the option of public school choice and supplemental services for their children, and ultimately a school's persistent failure could lead to reconstitution.

Consolidation of duplicative education programs will provide maximum local flexibility to focus on improving student achievement. For instance, title II of the BEST bill created a new State teacher development grant program with a substantially larger pot of money by combining all of the current teacher funding. States will have the option to use the funding for professional development, teacher mentoring, merit pay, teacher testing, as well as recruiting and training high-quality teachers.

For example, New Mexico maintains a commendable student-teacher ratio of 15.2 and under the bill will no longer be required to use a portion of these funds for class size reduction. Instead, New Mexico will have the option to use that money for teacher recruitment and retention programs or maybe additional training.

The new accountability provisions will ensure that historic increases in Federal education funding will be based upon school performance. The bill includes the President's Reading First initiative to ensure all children and kindergarten through third grade become proficient readers by the end of third grade. The bill also includes programs to create Math and Science Partnerships, Strengthen After-School Care, and provide for Early Childhood Reading Instruction.

Parents and the public will be given detailed school-by-school report cards on the performance of their schools. Parents will have the option to transfer their child from a failing public school to an effective public school with transportation provided or to redirect their child's share of federal funds towards tutoring or after-school academic services. Parents will be given the option to transfer their child out of a persistently unsafe public school to another public school of their choice.

As Congress proceeds, one of its primary missions will be to determine what is working, what is not working, and what can be improved to give our children a better chance of succeeding in the future.

Before I conclude, I want to briefly talk about several provisions that are of personal importance to me:

First, Senator DODD and a bipartisan group of Senators joined me earlier this year to introduce the Strong Character for Strong Schools Act. I think it is important to note that reform does not only apply math, science, and reading; instead we must also reform the culture of our schools.

Our bill will be part of an amendment offered by Senator COCHRAN and seeks to encourage the creation of character education programs at the State and local level by providing grants to eligible entities. I believe our bill builds upon the highly successful demonstration program to increase character education that was contained in the last ESEA bill.

Since 1994, the Department Of Education has made $25 million in ''seed money'' grants available to 28 States to develop character education programs. Currently, there are 36 States that have either received federal funding, or have enacted their own laws mandating or encouraging character education. Thus, the time is now to ensure that there is a permanent and dedicated funding source available for character education programs.

I also believe schools must not only have the resources for core missions like teaching reading, writing, math, and the sciences, but the additional resources to face emerging challenges.

Thus, I am extremely pleased the Senate has accepted an amendment authored by Senator KENNEDY and I to increase student access to mental health services by developing links between school districts and the local mental health system.

School districts would partner with mental health agencies, juvenile justice authorities, and any other relevant entities to better coordinate mental health services by: Improving preventive, diagnostic, and treatment services available to students; providing crisis intervention services and appropriate referrals for students in need of mental health services and continuing mental health services; and educating teachers, principals, administrators, and other school personnel about the services.

Finally, we must provide our school districts and schools with the resources to both recruit and retain the best available teachers for our children.

Earlier this year I introduced the Teacher Recruitment, Development, and Retention Act of 2001. I am very pleased to see elements of that bill included in the pending legislation. I am also grateful the Senate has accepted my amendment that will allow States the option of using Teacher Quality funds for the creation of Teacher Recruitment Centers. Teacher Recruitment Centers will serve as statewide clearinghouses for the recruitment and placement of K–12 teachers. The centers would also be responsible for creating programs to further teacher recruitment and retention within the state.

Thank you and I look forward to the working with my colleagues on this important issue and final passage of this bill.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, before turning to my tuition tax credit amendment, I am pleased to inform the people of Arizona that an agreement has been reached to allow the T.J. Pappas School to remain open and eligible for federal funds, including homeless education funds.

As I understand it, a modified version of the amendment I have offered to secure this objective will be incorporated into the bill shortly.

The Pappas School is well-known and well-regarded in the greater Phoenix area because it combines a high-quality education with essential social services required by the homeless students who attend.

I have visited the school and I believe that the work that they are doing is good work. I also believe that it would be a grave disservice to children who have already borne significant misfortune if the Federal Government deprived them of the opportunity to attend an institution that serves them so well.

Last fall, President Bush visited the school and came away impressed by the commitment of the staff and the hope that those dedicated professionals have instilled in their students.

The agreement that was hammered out by my self, Senator FEINSTEIN, Senator MURRAY, and Senator BOXER, revises the language in the underlying bill to allow Pappas and a number of

other worthy schools to continue serving children in need. It also ensures that essential safeguards for homeless students and their families are protected.

Of course, a homeless child should be able to attend any school he or she wishes—whether it be the school he or she attended before becoming homeless, or a school like Pappas that addresses their distinct needs on a transitional basis with the objective of enabling them to return to a mainstream school.

I am very pleased that despite some fundamental philosophical differences, it was possible to reach this agreement.

Mr. President, I want to make a brief statement on behalf of Senator MCCAIN and myself and others who have worked out the language of an amendment which will permit some schools for homeless children to continue to operate.

I ask unanimous consent to print in the RECORD an article from the Arizona Republic of June 14, 2001, relating to just one of the success stories of this school, the Thomas J. Pappas School.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

''From the Arizona Republic, June 14, 2001''

PAPPAS VALEDICTORY?

SOLE GRADUATE MAY BE LAST FOR SCHOOL

(By Karina Bland)

Crystal Sumlin is all there is to the Class of 2001, graduating tonight from the Thomas J. Pappas School for homeless children.

She is the school's first—and possibly last—graduate depending on a vote expected today in Congress to ban federal funding for homeless schools. The School is under fire for segregating kids from their public school peers.

''If it weren't for Pappas, I don't think I would have made it to graduation,'' Sumlin said. ''And I know I wouldn't be going to college.'' The school, open for more than a decade, added a high school three years ago, so its oldest students are juniors. But Sumlin, 17, who has almost straight A's—she got a C in trigonometry—finished her course work a year early.

Despite the uproar in Congress over her school, Sumlin is thinking only of finishing up a report on Arizona's unemployment rate and the new dress she'll wear under her black cap and gown.

Sumlin, her three younger sisters and little brother have been at Pappas for three years after a lifetime of switching schools. One year, she switched schools seven times.

She said her family moves about every three months, usually because the rent is too high, the landlord complains of too many kids, or her brother Jason, 16 and in a detention center, sometimes gets into trouble.

But they've been in the same place since November, the longest most of the kids remember without a move. They've lived in a shelter, cheap motels and apartments.

''I hate moving,'' Sumlin said. ''When I got older, I thought I wanted to travel, but, now, I don't know. I think I'll find a place and stay in it.''

EYE ON THE BALL

Shy at first, Sumlin starts talking and her plans spill out: Arizona State University in the fall. Maybe a class this summer to start. She wants to be an attorney.

School officials are helping her apply for financial aid and promising a scholarship.

''I'm going to be somebody,'' she said.

She is determined, said Mary Michaelis, the school's student services coordinator. And, unlike many kids at Pappas, Sumlin is pushed by her mother, Velma Williams, to do well.

''She is too big on school, my mom is,'' Sumlin said. ''She says I'm not going to drop out if she has anything to do with it.''

MOM HELPS OUT

Williams has everything to do with it. She volunteers at the school and stops by regularly to check on her kids.

''I push my kids a little harder than most people push their kids so that they make something of their lives and not have to work a job like I'm working now,'' Williams said.

She works 40 to 50 hours for less than $300 a week, collecting bills for a telemarketing company.

She knows about unpaid bills. Her phone doesn't work because she spent the money on new shoes, stockings and a rented limousine for Pappas', and the girls', first prom.

They'll eat bologna for a week.

She is raising six kids. Her oldest, Chris, 21, is on his own in school in Seattle, with no government assistance and no child support. The kids have no contact with their fathers.

All the kids need new shoes. She'll buy two pairs this week, two the week after and two more after that.

''I have always taught them if you want something, you work for it,'' Williams said. ''You don't expect the next person to hand it to you.''

PAPPAS PICKS UP THE SLACK

Pappas is the only place her kids have had a chance to do well, she said. Now, no matter how often they move, they stay put at school—the same teachers, the same friends.

It is the one stable thing in their lives, their mother said.

Most schools require kids to live within attending boundaries or get there on the their own. Pappas buses travel hundreds of miles a day, picking up kids wherever they live.

Kids can eat, get clothes and even medical treatment there.

Pappas could lose $850,000, almost two-thirds of its annual budget, if Congress decides today to pull its federal funding.

Maricopa County Schools Superintendent Sandra Dowling said she'd come up with the money somehow rather than lose the school at Fifth Avenue and Van Buren Street.

HOLDING DOWN THE FORT

Sumlin is in charge in her family's two-bedroom townshouse near 24th Street and McDowell Road until Mom gets off work, sometimes 8 or 9 p.m.

In the long afternoons, she weaves complicated braids in her sister's hair. They listen to music, singing along with Mariah Carey.

''We don't have vocal skills,'' Sumlin said, laughing. ''But we do it anyway.''

Michael, 9, the youngest and only boy at home, has hazel eyes and girlfriends in sixth and eighth grades. He wants to be a firefighter.

Report cards are out. The kids pass them proudly. Berry a tubby Basset hound, rolls belly up.

Sumlin cooks for the kids, often making spaghetti or chicken and Rice-A-Roni.

She hopes her family stays put awhile, though she plans to live in a dormitory at ASU.

Sumlin is nervous about going to college but said, ''I think I'll be all right as long as I can come home and visit.''

No matter where home may be.

Mr. KYL. Mr. President, I will briefly explain what we accomplished in this amendment. An agreement was reached to allow the Thomas J. Pappas School in Arizona to remain open and eligible for Federal funds, including these homeless education funds. A modified version of the amendment I offered to accomplish this will be incorporated into the bill shortly.

For the information of my colleagues, the Pappas School is well known and very well regarded in the greater Phoenix area because it combines a high-quality education with essential social services required by the homeless students who attend the school.

I have visited the school, and I know the work they are doing is very good. I also think it would be a grave disservice to the children who have already borne significant misfortune in their lives if the Federal Government deprived them of the opportunity to attend an institution that has served them so well.

Last fall, president Bush visited the school and came away very impressed by the commitment of the staff and the hope those dedicated professionals have instilled in their students.

The agreement I speak of was hammered out by Senator FEINSTEIN, Senator MURRAY, Senator BOXER, Senator MCCAIN, and myself, and revises the language in the underlying bill to allow the Pappas School and a number of other worthy schools to continue serving children in need.

It ensures essential safeguards for homeless students, and their families are protected. Of course, a homeless child should be able to attend any school, whether it is the school he or she attended before becoming homeless or a school that addresses their distinct needs on a transitional basis with the objective of enabling them to return to a mainstream school.

I am very pleased, despite fundamental philosophical differences, it was possible to reach this agreement. We have done something for homeless children, and for that I think we should be rightly proud.

Secondly, Mr. President, I would like to offer a few words about an amendment that I will not be offering. I believe that these comments will go some distance toward explaining the reasons why I plan to vote against final passage of the bill before us.

Mr. President, I appreciate the opportunity to say a few words about my amendment number 580.

I will not be offering this amendment so that there will be no blue slip problems with the House.

This amendment, like the Gregg amendment, that—unfortunately—was defeated earlier this week, would make real reforms that address the urgent need to improve elementary and secondary education in our country.

The tax bill that we passed last month takes a very important first step along these same lines by allowing

the Coverdell education IRAs to be used not only to facilitate savings for college education but for grades K through 12 as well.

While the administration of our schools is and should remain a local responsibility, we have a compelling national interest in improving the quality of K through 12 education.

And there are ways to discharge that responsibility without adding to the bureaucracy in Washington and without adding new mandates.

As has been noted repeatedly during debate on this bill: It is a fact that America is currently not educating the workforce it needs for the economy of the 21st century. Raising overall achievement will enhance America's competitiveness.

It is a fact that international tests reveal that American high school seniors rank 19th out of 21 industrialized nations in mathematics achievement and 16th out of 21 nations in science achievement.

Ironically, this threat to our competitiveness is the result of our failure to apply the very principles undergirding our economy's success in the area of education.

Our Nation has thrived because our leading industries and institutions have been challenged by constant pressure to improve and to innovate. The source of that pressure is vigorous competition among producers of a service or a good for the allegiance of their potential customers or consumers.

So why not promote innovation by producers and choice for consumers in the field of education?

The quasi-monopoly of public education today discourages this innovation.

We must find a way to promote innovation and opportunity through greater choice of parents. Those are the concepts that have built this country through our great free market economic system, and it is the same concept that can improve our educational system.

The other problem with our education system is that too many of our children are literally being left behind.

Anyone who has followed this debate has heard the particulars, but they demand our repeated attention: Thirty-seven percent of American fourth graders' tests show that they are essentially unable to read. For Hispanic fourth graders, the proportion is 58 percent, and for African-American fourth graders, it is 63 percent.

As President Bush has repeatedly noted, far too many of America's most disadvantaged youngsters pass through public schools without receiving an adequate education. It is intolerable that millions of children are trapped in unsafe and failing schools.

Parents should have a right in the United States of America to get the best education possible for their children as they see it, and the amendment I offer today will help secure that right.

My amendment would provide a $250 tax credit, $500 for joint filers, to partially offset the cost of donations to tuition scholarship organizations.

These organizations—usually founded by business leaders—that provide tuition scholarships to enable needy youngsters to attend a school of their families' choosing. The idea first came to light about a decade ago when the first one was founded in Indianapolis. Now there are more than 80 such programs serving more than 50,000 students nationwide.

For families who benefit, these programs are a godsend. A study that was just released by the Kennedy School of Government found that 68 percent of parents awarded scholarships are very satisfied with academics at their child's school compared with only 23 percent of parents not awarded scholarships.

I should pause on that point to observe if this amendment became law and scholarships were to become more widely available, the schools these students left would have a much greater incentive to improve than is the case today.

Because we anticipate that the tax credit would foster competition, we anticipate that its adoption will bring improvement of all schools, not just a few.

But today, the problem is that demand for scholarships far outstrips supply, even though these low-income families must agree to contribute a significant portion of the total cost of tuition.

For example, in 1997, 1,000 partial tuition scholarships were offered to needy families in the District of Columbia. Nearly 8,000 applications were received.

Another example: In 1999, 1.25 million applied for 40,000 scholarships in a national lottery. Clearly, there is a huge unmet demand for this kind of assistance.

In 1997, Arizona implemented an innovative plan to meet that demand in our State: A $500 tax credit to offset donations to organizations that provide tuition scholarships to elementary and secondary students. The results: Upwards of $40 million in donations to tuition scholarship organizations.

The number of school tuition organizations operating in my State of Arizona is up from 2 to 33, and the organizations have a very wide range of emphasis and orientations. For example, they range from the Jewish Community Day School Scholarship Fund to the Fund for Native Scholarship Enrichment and Resources to the Foundation for Montessori Scholarships.

Nearly 15,000 Arizona students, nearly all of them from disadvantaged backgrounds, have received this scholarship assistance.

While some have charged that the law was unconstitutional—particularly given the explicit prohibition on direct aid to parochial schools in Arizona's constitution—our State supreme court recognized that allowing taxpayers to use their own money to support education is a different matter and upheld the program.

And consistent with previous holdings on the subject, the U.S. Supreme Court declined to review the decision.

In other words, the Arizona tax credit should be embraced by those concerned that Federal dollars going to vouchers which students would then take to the school of their choice could possibly be unconstitutional.

In Arizona, you do not have public dollars being given to students in the form of vouchers which are then taken to the school of their choice.

Instead, what we provide is that if people want to contribute money to a duly qualifying scholarship fund, that scholarship fund can then give that scholarship to needy students and those students can take that scholarship to whatever school in which they want to be educated and the donors receive a tax credit.

That is constitutional. It does not violate any notion of separation of church and state.

And yet it permits people to help those who need the help the most to have the flexibility that only the most wealthy in our society have today: the ability to take their kids to the school of their choice.

I have come to believe that it offers the best possible way to resolve this problem of choice and innovation.

It meets the constitutional challenges; it involves the private sector; it involves personal donations; it does not give the Federal Government the task of funding and administering a large voucher program.

Yet it gets the benefits to the students who need it the most, who are willing to contribute part of their own income to match that scholarship and pay the tuition at the school of their choice.

Now when I brought this amendment up during the debate on the tax bill, I listened carefully to the arguments that were offered in opposition by my colleague, Senator BINGAMAN.

In his remarks, my colleagues made two basic contentions.

First he said:

> What we are saying [if we pass this amendment] is we will not appropriate money directly to those schools, but we will give each taxpayer a $250 credit if they will give that $250 to the private school. That, to men, seems to be a pretty direct way of providing Federal support for private and parochial schools.

But as Arizona Republic columnist Robert Robb noted, this argument equating tax credits with direct appropriations ''ultimately rests on the odious theory that government is entitled to all your money, and anything it doesn't grab is in fact expended.''

Senator BINGAMAN went on to argue that it would be imprudent to enact a proposal this ''costly'' at a time ''when we are unable to make [a comparable] commitment to the public schools.''

But the recent history of the bill before us today rebuts the premise of that argument.

The Joint Committee on Taxation has estimated this credit could cost the Federal Treasury $43.4 billion over a 10-year period.

Meanwhile, the Budget Committee's staff report that, as of last week, the Senate has added $211 billion to this bill for a total seven-year price tag of $417 billion.

And given the concern about public schools, it is also worth noting that this tax credit is neutral as to whether scholarships should be used at public or non-public schools.

Scholarships could be used to offset tuition costs at a private school, or to pay the tuition costs families in most states must pay to enroll a child in a school across district boundaries.

I hope that my colleagues will think about what a magnitude of difference that money would make in the lives of our children: $43 billion would finance 12.4 million $3,500 scholarships.

Think of the opportunity provided to those 12.4 million students with a $3,500 scholarship to take them out of the condition of education they are in now, out of the failing school, out of the unsafe school, and to a school where they can achieve, where they can learn, where they can be competitive, where they can learn their full potential.

I have said many times that if we can get education right, almost everything else in this country will follow. By ''we,'' I do not just mean the Federal Government. In fact, I mean primarily the parents and local school folks.

First, it will help people realize their full potential.

Second, it will make them more qualified to compete for the kinds of jobs that are going to exist in the future.

Third, it will help our Nation compete. We are going to need to compete in a world environment.

Fourth, it is going to make us more secure because we are going to have the kind of young students who can invent the things that are going to help us keep our technological edge when it comes to national security.

Fifth, it is going to make us better citizens.

I have been somewhat appalled at what some of our schools do not teach about the history of this great country of ours, about the foundation for the self-governance we have, about the need for people, especially young people, to participate in our democratic Republic.

I fear that generations of Americans are growing up not being taught the fundamentals of our society, our Government, and our free-market system that we were taught, and I think fairly well.

If we go a couple generations without teaching our children accurately and adequately in subjects from math and reading to history to government to economics and all the other subjects that students in this complex world have to master, then we are not going to progress as a nation and be the leading superpower and the leader of the world we are today, in economic terms or in terms of human rights, democratic principles, and other societal values.

If we get education right, we can flourish in all of these areas, and if we stay 19th out of 21 countries on these tests, then Americans are not going to be as well educated and we will be overtaken by other nations.

We have led the world in foreign aid and assistance. We have led the world in our insistence on human rights.

In other words, America stands for what is good on this Earth, and for us to continue to be the leader of the world to promote these values requires an educated citizenry, a citizenry that will be educated and committed to these ideals, to these propositions.

We cannot sustain that kind of education with the system we have today. The scholarship tuition credits I am proposing with this amendment will enable parents to allow their children to be educated in the very best schools for those students and to enable them to escape the kind of system we have today to one where each child can grow to their full potential. We must demand nothing less of our system.

This scholarship tax credit is an idea whose time has come, and that is why I have pressed it repeatedly and will continue to do so.

AMENDMENTS NOS. 571 AS MODIFIED, 527 AS MODIFIED, 457 AS MODIFIED, 582 AS MODIFIED, 432 AS MODIFIED, 585 AS MODIFIED, 586, 587 AS MODIFIED, 588, 589, 590, 591, 592 AS MODIFIED, 593, 595, 512 AS MODIFIED, 435 AS MODIFIED, 386, 424, 516, 804, EN BLOC, TO AMENDMENT NO. 358

Mr. KENNEDY. Mr. President, we are in a position to clear amendments by consent. I ask unanimous consent to consider these amendments en bloc, the amendments be agreed to en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 571, AS MODIFIED

(Purpose: To provide grants to states with high growth rates in Title I children)

Beginning on page 141, strike line 23 through line 13 on page 142, and insert the following:

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the amount made available for each local educational agency under sections 1124 and 1124A for the fiscal year shall not be less than the greater of—

''(i) 100 percent of the amount the local educational agency received for fiscal year 2001 under sections 1124 and 1124A, respectively; or

''(ii) 100 percent of the amount calculated for the local educational agency for the fiscal year under sections 1124 and 1124A, respectively, determined without applying the hold harmless provisions of this subparagraph.

''(C) APPLICABILITY.—Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

''(D) POPULATION UPDATES.—

''(i) IN GENERAL.—Notwithstanding paragraph (4), in fiscal year 2001 and each subsequent year, the Secretary shall use updated data, for purposes of carrying out section 1124, on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable.

''(ii) INAPPROPRIATE OR UNRELIABLE DATA.—If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this subparagraph are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall—

''(I) publicly disclose their reasons;

''(II) provide an opportunity for States to submit updated data on the number of children described in clause (i); and

''(III) review the data and, if the data are appropriate and reliable, use the data, for the purposes of section 1124, to determine the number of children described in clause (i).

''(iii) CRITERIA OF POVERTY.—In determining the families that are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

''(iv) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for each fiscal year such sums as may be necessary to update the data described in clause (i).

AMENDMENT NO. 527, AS MODIFIED

(Purpose: To establish an exception to the prohibition on segregating homeless students)

On page 284, strike lines 6 through 13 and insert the following:

''(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth, either in a separate school, or in a separate program within a school, based on such child's or youth's status as homeless.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), paragraphs (1)(H) and (3) of subsection (g), section 723(a)(2), and any other provision of this subtitle relating to the placement of homeless children or youth in schools, a State that has a separate school for homeless children or youth that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this subtitle for programs carried out in such school if—

''(i) the school meets the requirements of subparagraph (C);

''(ii) any local educational agency serving a school that the homeless children and youth enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and

''(iii) the State is otherwise eligible to receive funds under this subtitle.

''(C) SCHOOL REQUIREMENTS.—For the State to be eligible to receive the funds, the school shall—

''(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to

the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

''(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

''(II) reviews the general rights provided under this subtitle; and

''(III) specifically states—

''(aa) the choice of schools homeless children and youth are eligible to attend, as provided in subsection (g)(3)(A);

''(bb) that no homeless child or youth is required to attend a separate school for homeless children or youth;

''(cc) that homeless children and youth shall be provided comparable services described in subsection (g)(4), including transportation services, educational services, and meals through school meals programs;

''(dd) that homeless children and youth should not be stigmatized by school personnel; and

''(ee) contact information for the local liaison for homeless children and youth and State Coordinator for Education of Homeless Children and Youth;

''(ii)(aa) provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A); and

''(bb) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;

''(iii) ensure that the parent or guardian (or youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and

''(iv) demonstrate in the school's application for funds under this subtitle that such school—

''(I) is complying with clauses (i) and (ii); and

''(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 and providing a full range of education and related services, including services applicable to students with disabilities).

''(D) SCHOOL INELIGIBILITY.—A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this subtitle for programs carried out in such school after the first date of such failure.

''(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B) shall—

''(i) implement a coordinated system for ensuring that homeless children and youth—

''(I) are advised of the choice of schools provided in subsection (g)(3)(A);

''(II) are immediately enrolled in the school selected in accordance with subsection (g)(3)(C); and

''(III) are provided necessary services, including transportation, promptly to allow homeless children and youth to exercise their choices of schools in accordance with subsection (g)(4);

''(ii) document that written notice has been provided—

''(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school described in subparagraph (B); and

''(II) in accordance with subsection (g)(1)(H)(ii);

''(iii) prohibit schools within the agency's jurisdiction from referring homeless children or youth to, or requiring homeless children and youth to enroll in or attend, a separate school described in subparagraph (B);

''(iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and

''(v) not use funds received under this subtitle to establish—

''(I) new or additional separate schools for homeless children or youth, other than schools described in subparagraph (B); or

''(II) new or additional sites for separate schools for homeless children or youth, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

''(F) REPORT.—

''(i) PREPARATION.—

''(I) IN GENERAL.—The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this subtitle in accordance with this paragraph.

''(II) CONTENTS.—The report shall contain, at a minimum, information on—

''(aa) compliance with all requirements of this paragraph;

''(bb) barriers to school access in the school districts served by the local educational agencies; and

''(cc) the progress the separate schools are making in integrating homeless children and youth into the mainstream school environment, including the average length of student enrollment in such schools.

''(ii) COMPLIANCE WITH INFORMATION REQUESTS.—For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinators for the Education of Homeless Children and Youth, and shall comply with any requests for information by the Secretary and State Coordinators.

''(iii) SUBMISSION.—Not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall submit the report described in clause (i) to—

''(I) the President;

''(II) the Committee on Education and the Workforce of the House of Representatives; and

''(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

''(G) DEFINITION.—In this paragraph, the term 'covered county' means—

''(i) San Joaquin County, CA;

''(ii) Orange County, CA;

''(iii) San Diego County, CA; and

''(iv) Maricopa County, AZ.''

AMENDMENT NO. 457, AS MODIFIED

(Purpose: To increase parental involvement and protect student privacy)

On page 778, after line 21, add the following:

''PART C—INCREASING PARENTAL INVOLVEMENT AND PROTECTING STUDENT PRIVACY

''SEC. 6301. INTENT.

''It is the purpose of this part to provide parents with notice of and opportunity to make informed decisions regarding the collection of information for commercial purposes occurring in their children's classrooms.

''SEC. 6302. COMMERCIALIZATION POLICIES AND PRIVACY FOR STUDENTS.

''(a) PROHIBITION.—Except as provided in subsection (b), no State educational agency or local educational agency that is a recipient of funds under this Act may—

''(1) disclose data or information the agency gathered from a student to a person or entity that seeks disclosure of the data or information for the purpose of benefiting the person or entity's commercial interests; or

''(2) permit a person or entity to gather from a student, or assist a person or entity in gathering from a student, data or information, if the purpose of gathering the data or information is to benefit the commercial interests of the person or entity.

''(b) PARENTAL CONSENT.—

''(1) DISCLOSURE.—A State educational agency or local educational agency that is a recipient of funds under this Act may disclose data or information under subsection (a)(1) if the agency, prior to the disclosure—

''(A) explains to the student's parent, in writing, what data or information will be disclosed, to which person or entity the data or information will be disclosed, the amount of class time, if any, that will be consumed by the disclosure, and how the person or entity will use the data or information; and

''(B) obtains the parent's written permission for the disclosure.

''(2) GATHERING.—A State educational agency or local educational agency that is a recipient of funds under this Act may permit or assist a person or entity with the gathering of data or information under subsection (a)(2) if the agency, prior to the gathering—

''(A) explains to the student's parent, in writing, what data or information will be gathered including whether any of the information is personally identifiable, which person or entity will gather the data or information, the amount of class time if any, that will be consumed by the gathering, and how the person or entity will use the data or information; and

''(B) obtains the parent's written permission for the gathering.

''(c) DEFINITIONS.—In this part:

''(1) STUDENT.—The term 'student' means a student under the age of 18.

''(2) COMMERCIAL INTEREST.—The term 'commercial interest' does not include the interest of a person or entity in developing, evaluating, or providing educational products or services for or to students or educational institutions, such as—

''(A) college and other post-secondary education recruiting;

''(B) book clubs and other programs providing access to low cost books or other related literary products;

''(C) curriculum and instructional materials used by elementary and secondary schools to teach if—

''(i) the information is not used to sell or advertise another product;

''(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(iii) the curriculum and instructional materials are used in accordance with applicable Federal, State, and local policies, if any; and

''(D) the development and administration of tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data if—

''(i) the information is not used to sell or advertise another product;

''(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(iii) the tests are conducted in accordance with applicable Federal, State, and local policies, if any.

''(d) LOCALLY DEVELOPED EXCEPTIONS.—A local educational agency, in consultation with parents, may develop appropriate exceptions to the consent requirements contained in this part if—

''(1) the information to be collected is not personally identifiable;

''(2) the local educational agency provides written notice to all parents of its policy regarding data or information collection activities for commercial purposes; and

''(3) with respect to any particular data or information gathering or disclosure, the agency provides written notice to all parents of—

''(A) the data or information to be collected;

''(B) the person or entity to whom the data or information will be disclosed;

''(C) the amount of class time, if any, that will be consumed by the collection activities; and

''(D) the manner in which the person or entity will use the data or information.

''(e) FUNDING.—A State educational agency or local educational agency may use funds provided under subpart 4 of part B of title V to enhance parental involvement in areas affecting children's in-school privacy.

''(f) TECHNICAL ASSISTANCE.—Upon the request of a State educational agency or local educational agency, the Secretary shall provide technical assistance to such an agency concerning compliance with this part.

''(g) ENFORCEMENT.—The Secretary shall take appropriate actions to enforce, and address violations of, this section, in accordance with this chapter.

''(h) OFFICE, FUNCTIONS.—The Secretary shall designate an office to enforce this section and to provide technical assistance.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede the Family Educational Rights and Privacy Act (20 U.S.C. 1232g).''.

AMENDMENT NO. 582, AS MODIFIED

(Purpose: To protect student privacy)

On page 778, after line 21, add the following:

SEC. ___. GUIDELINES FOR STUDENT PRIVACY.

(a) DEVELOPMENT OF STUDENT PRIVACY GUIDELINES.—A State or local educational agency that receives funds under this Act shall develop and adopt guidelines regarding arrangements to protect student privacy that are entered into by the agency with public and private entities that are not schools.

(b) NOTIFICATION OF PARENTS OF PRIVACY GUIDELINES.—The guidelines developed by an educational agency under subsection (a) shall provide for a reasonable notice of the adoption of such guidelines to be given, by the agency or a school under the agency's supervision, to the parents and guardians of students under the jurisdiction of such agency or school. Such notice shall be provided at least annually and within a reasonable period of time after any change in such guidelines.

(c) EXCEPTIONS.—This section shall not apply to the development, evaluation, or provision of educational products or services for or to students or educational institutions, such as the following:

(1) College or other post-secondary education recruitment or military recruitment.

(2) Book clubs, magazines, and programs providing access to other literary products.

(3) Curriculum and instructional materials used by elementary and secondary schools to teach.

(4) The development and administration of tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data.

(5) The sale by students of products or services to raise funds for school- or education-related activities.

(6) Student recognition programs.

(d) INFORMATION ACTIVITIES BY THE SECRETARY.—Once each year, the Secretary shall inform each State educational agency and each local educational agency of the educational agency's obligations under section 438 of the General Education Provisions Act (added by the Family Educational Rights and Privacy Act of 1974; 20 U.S.C. 1232g) and the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.).

(e) FUNDING.—A State educational agency or local educational agency may use funds provided under subpart 4 of Part B of title V of the Elementary and Secondary Education Act of 1965 to enhance parental involvement in areas affecting children's in-school privacy.

(f) DEFINITIONS.—In this section, the terms ''elementary school'', ''local educational agency'', ''secondary school'', ''Secretary'', and ''State educational agency'' have the meanings given those terms in section 3 of the Elementary and Secondary Education Act of 1965.

AMENDMENT NO. 432, AS MODIFIED

(Purpose: To broaden local applications, and for other purposes)

On page 324, between lines 10 and 11, insert the following:

''(11) A description of how the local educational agency will provide training to enable teachers to—

''(A) address the needs of students with disabilities, students with limited English proficiency, and other students with special needs;

''(B) involve parents in their child's education; and

''(C) understand and use data and assessments to improve classroom practice and student learning.

On page 326, line 2, strike ''and''.

On page 326, line 7, strike the period and insert ''; and''.

On page 326, between lines 7 and 8, insert the following:

''(D) effective instructional practices that involve collaborative groups of teachers and administrators, using such strategies as—

''(i) provision of dedicated time for collaborative lesson planning and curriculum development meetings;

''(ii) consultation with exemplary teachers;

''(iii) team teaching, peer observation, and coaching;

''(iv) provision of short-term and long-term visits to classrooms and schools;

''(v) establishment and maintenance of local professional development networks that provide a forum for interaction among teachers and administrators about content knowledge and teaching and leadership skills; and

''(vi) the provision of release time as needed for the activities;

''(E) teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher, mentor teacher, and master teacher career paths) and pay differentiation.''

AMENDMENT NO. 585, AS MODIFIED

(Purpose: To improve the Early Reading First Program)

On page 207, strike line 8 and all that follows through page 212, line 15, and insert the following:

''Subpart 3—Early Reading First

''SEC. 1241. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based research.

''(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

''(3) To demonstrate language and literacy activities based on scientifically based research that support the age-appropriate development of—

''(A) spoken language and oral comprehension abilities;

''(B) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes;

''(C) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

''(D) knowledge of the purposes and conventions of print.

''(4) To integrate these learning opportunities with learning opportunities at preschools, child care agencies, and Head Start agencies, and with family literacy services.

''SEC. 1242. LOCAL EARLY READING FIRST GRANTS.

''(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 1002(b)(3), the Secretary shall award grants, on a competitive basis, for periods of not more than 5 years, to eligible applicants to enable the eligible applicants to carry out the authorized activities described in subsection (e).

''(b) DEFINITION OF ELIGIBLE APPLICANT.—In this subpart the term 'eligible applicant' means—

''(1) one or more local educational agencies that are eligible to receive a subgrant under subpart 2;

''(2) one or more public or private organizations or agencies, acting on behalf of 1 or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency described in paragraph (1); or

''(3) one or more local educational agencies described in paragraph (1) in collaboration with one or more organizations or agencies described in paragraph (2).

''(c) APPLICATIONS.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary which shall include a description of—

''(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the preschool age children enrolled in the programs;

''(2) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-

quality language, literacy and prereading activities using scientifically based research, for preschool age children;

''(3) how the proposed project will provide services and utilize materials that are based on scientifically based research on early language acquisition, prereading activities, and the development of spoken language skills;

''(4) how the proposed project will help staff in the programs to meet the diverse needs of preschool age children in the community better, including such children with limited English proficiency, disabilities, or other special needs;

''(5) how the proposed project will help preschool age children, particularly such children experiencing difficulty with spoken language, prereading, and literacy skills, to make the transition from preschool to formal classroom instruction in school;

''(6) if the eligible applicant has received a subgrant under subpart 2, how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 2 at the kindergarten through third-grade level;

''(7) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age children served by the project; and

''(8) such other information as the Secretary may require.

''(d) APPROVAL OF APPLICATIONS.—The Secretary shall select applicants for funding under this subpart on the basis of the quality of the applications, in consultation with the National Institute for Child Health and Human Development, the National Institute for Literacy, and the National Academy of Sciences. The Secretary shall select applications for approval under this subpart on the basis of a peer review process.

''(e) AUTHORIZED ACTIVITIES.— An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

''(A) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

''(B) Providing professional development that is based on scientifically based research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children's—

''(i) spoken language (including vocabulary, the contextual use of speech, and syntax) and oral comprehension abilities;

''(ii) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes;

''(iii) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

''(iv) knowledge of the purposes and conventions of print.

''(C) Identifying and providing activities and instructional materials that are based on scientifically based research for use in developing the skills and abilities described in subparagraph (B).

''(D) Acquiring, providing training for, and implementing screening tools or other appropriate measures that are based on scientifically based research to determine whether preschool age children are developing the skills described in this subsection.

''(E) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

''(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

''SEC. 1243. FEDERAL ADMINISTRATION.

''The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with preschool age programs administered by the Department of Health and Human Services.

''SEC. 1244. INFORMATION DISSEMINATION.

''From the funds the National Institute for Literacy receives under section 1227, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

''SEC. 1245. REPORTING REQUIREMENTS.

''Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

''(1) the activities, materials, tools, and measures used by the eligible applicant;

''(2) the professional development activities offered to the staff of the eligible applicant who serve preschool age children and the amount of such professional development;

''(3) the types of programs and ages of children served; and

''(4) the results of the evaluation described in section 1242(c)(7).

''SEC. 1246. EVALUATIONS.

''From the total amount appropriated under section 1002(b)(3) for the period beginning October 1, 2002 and ending September 30, 2008, the Secretary shall reserve not more than $5,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

''SEC. 1247. ADDITIONAL RESEARCH.

''From the amount appropriated under section 1002(b)(3) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than $3,000,000 to conduct, in consultation with National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for preschool age children.''.

AMENDMENT NO. 586

(Purpose: To improve the Pupil Safety and Family School Choice Program)

On page 83, strike lines 3 through 9.

AMENDMENT NO. 587, AS MODIFIED

(Purpose: To refine the Improving Academic Achievement Program)

On page 774 strike line 1 and all that follows through page 778, line 21, and insert the following:

''PART B—IMPROVING ACADEMIC ACHIEVEMENT

''SEC. 6201. EDUCATION AWARDS.

''(a) ACHIEVEMENT IN EDUCATION AWARDS.—

''(1) IN GENERAL.—The Secretary may make awards, to be known as 'Achievement in Education Awards', using a peer review process, to the States that, beginning with the 2002–2003 school year, make the most progress in improving educational achievement.

''(2) CRITERIA.—

''(A) IN GENERAL.—The Secretary shall make the awards on the basis of criteria consisting of—

''(i) the progress of each of the categories of students described in section 1111(b)(2)(B)(v)(II)—

''(I) towards the goal of all such students reaching the proficient level of performance; and

''(II) beginning with the 2nd year for which data are available for all States, on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills;

''(ii) the progress of all students in the State towards the goal of all students reaching the proficient level of performance, and (beginning with the 2nd year for which data are available for all States) the progress of all students on the assessments described in clause (i)(II);

''(iii) the progress of the State in improving the English proficiency of students who enter school with limited English proficiency;

''(iv) the progress of the State in increasing the percentage of students who graduate from secondary school; and

''(v) the progress of the State in increasing the percentage of students who take advanced coursework, such as advanced placement and international baccalaureate courses, and who pass advanced placement and international baccalaureate tests.

''(B) WEIGHT.—In applying the criteria described in subparagraph (A), the Secretary shall give the greatest weight to the criterion described in subparagraph (A)(i).

''(b) ASSESSMENT COMPLETION BONUSES.—The Secretary may make 1-time bonus payments to States that complete the development of assessments required by section 1111 in advance of the schedule specified in such section.

''(c) NO CHILD LEFT BEHIND AWARDS.—The Secretary may make awards, to be known as 'No Child Left Behind Awards' to the schools that—

''(1) are nominated by the States in which the schools are located; and

''(2) have made the greatest progress in improving the educational achievement of economically disadvantaged students.

''(d) FUND TO IMPROVE EDUCATION ACHIEVEMENT.—The Secretary may make awards for activities other than the activities described in subsections (a) through (c), such as character education, that are designed to promote the improvement of elementary and secondary education nationally.

''SEC. 6202. LOSS OF ADMINISTRATIVE FUNDS.

''(a) 2 YEARS OF INSUFFICIENT PROGRESS.—

''(1) REDUCTION.—If the Secretary makes the determinations described in paragraph (2) for 2 consecutive years, the Secretary shall reduce, by not more than 30 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''(2) DETERMINATIONS.—The determinations referred to in paragraph (1) are determinations, made primarily on the basis of data from the State assessment system described in section 1111 and data from State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills, that—

''(A) the State has failed to make adequate yearly progress as defined under section 1111(b)(2) (B) and (D) for all students and for each of the categories of students described in section 1111(b)(2)(B)(v)(II);

''(B) beginning with the 2nd year for which data are available on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics, the State has failed to demonstrate an increase in the achievement of each of the categories of students described in section 1111(b)(2)(B)(v)(II); and

''(C) the State has failed to meet its annual measurable performance objectives, for helping limited English proficient students develop proficiency in English, that are required to be developed under section 3329.

''(b) 3 OR MORE YEARS OF INSUFFICIENT PROGRESS.—If the Secretary makes the determinations described in subsection (a)(2) for a third or subsequent consecutive year, the Secretary shall reduce, by not more than 75 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''SEC. 6203. GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.

''(a) STATE GRANTS AUTHORIZED.—From amounts appropriated under subsection (c) the Secretary shall award grants to States to enable the States to pay the costs of—

''(1) developing assessments and standards required by amendments made to this Act by the Better Education for Students and Teachers Act;

''(2) working in voluntary partnerships with other States to develop such assessments and standards; and

''(3) other activities described in this part or related to ensuring accountability for results in the State's public elementary schools or secondary schools, and local educational agencies, such as—

''(A) developing content and performance standards, and aligned assessments, in subjects other than those assessments that were required by amendments made to section 1111 by the Better Education for Students and Teachers Act; and

''(B) administering the assessments required by amendments made to section 1111 by the Better Education for Students and Teachers Act.

''(b) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—From the amount appropriated to carry out this section for any fiscal year, the Secretary first shall allocate $3,000,000 to each State.

''(2) REMAINDER.—The Secretary shall allocate any remaining funds among the States on the basis of their respective numbers of children enrolled in grades 3 through 8 in public elementary schools and secondary schools.

''(3) DEFINITION OF STATE.—For the purpose of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the succeeding 6 fiscal years.

''SEC. 6204. AUTHORIZATION OF APPROPRIATIONS.

''(a) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated $110,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) EDUCATION AWARDS.—For the purpose of carrying out section 6201, there are authorized to be appropriated $50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.''.

On page 458, strike lines 10 through 12, and insert the following:

''(C)(i) who was not born in the United States or whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

On page 486, strike lines 10 and 11, and insert the following:

''(1) parts A, C, E (other than section 3405), and F shall not be in effect; and''.

AMENDMENT NO. 588

(Purpose: To amend the local educational plan under section 1112(c) of the Elementary and Secondary Education Act of 1965 regarding models of high quality, effective curriculum)

On page 74, strike line 24, and insert the following:

''parents and teachers; and

''(14) make available to each school served by the agency and assisted under this part models of high quality, effective curriculum that are aligned with the State's standards and developed or identified by the State.''; and

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AMENDMENT NO. 589

(Purpose: To improve section 1116 of the Elementary and Secondary Education Act of 1965 regarding assessment and local educational agency and school improvement)

On page 83, line 25, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 84, line 4, insert '', principals, teachers, and other staff in an instructionally useful manner'' after ''schools''.

On page 84, line 25, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 88, line 6, strike ''meet'' and insert ''make continuous and significant progress towards meeting the goal of all students reaching''.

On page 90, line 5, insert ''(including problems, if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan)'' after ''problems''.

On page 91, line 15, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 92, line 13, insert ''and giving priority to the lowest achieving students'' after ''basis''.

On page 95, line 9, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 95, beginning with line 13, strike all through page 96, line 6, and insert the following:

''(i)(I) provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1); and

''(II) if all public schools in the local educational agency to which children may transfer are identified under paragraph (1) or this paragraph, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for the transfer of as many of those children as possible, selected by the agency on an equitable basis;

''(ii) make supplemental educational services available, in accordance with subsection (f), to children who remain in the school;

On page 96, line 7, strike ''(ii)'' and insert ''(iii)''.

On page 96, line 21, strike ''(iii)'' and insert ''(iv)''.

On page 96, strike line 23 and all that follows through page 97, line 23.

On page 97, line 24, strike ''(E)'' and insert ''(D)''.

On page 98, line 7, strike ''(F)'' and insert ''(E)''.

On page 98, line 16, strike ''and fails'' and all that follows through ''this paragraph'' on page 98, line 20.

On page 98, line 25, strike ''(D)'' and insert ''(C)''.

On page 99, line 6, insert ''(i)'' after ''(B)''.

On page 99, line 12, strike ''(i)'' and insert ''(I)''.

On page 99, line 14, strike ''(ii)'' and insert ''(II)''.

On page 99, line 16, strike ''(iii)'' and insert ''(III)''.

On page 99, line 19, strike ''(iv)'' and insert ''(IV)''.

On page 99, line 21, strike ''(v)'' and insert ''(V)''.

On page 99, between lines 22 and 23, insert the following:

''(ii) A rural local agency, as described in section 5231(b), may apply to the Secretary for a waiver of the requirements of this subparagraph if the agency submits to the Secretary an alternative plan for making significant changes to improve student performance in the school, such as providing an academically focused after school program for all students, changing school administration, or implementing a research based, proven effective, whole school reform program. The Secretary shall approve or reject an application for a waiver under this subparagraph not later than 30 days after the submission of information required by the Secretary to apply for the waiver. If the Secretary fails to make a determination with respect to the waiver application within such 30 days, the application shall be considered approved by the Secretary.

On page 100, line 6, strike ''(D)'' and insert ''(C)''.

On page 100, line 23, strike ''(A)''.

On page 101, strike lines 5 though 20.

On page 102, lines 15 and 16, strike ''(7)(C) and subject to paragraph (7)(D)'' and insert ''(5)''.

On page 102, line 21, strike '', and that'' and all that follows through ''1111(b)(2)(B)(v)(II),'' on page 102, line 25.

On page 103, line 1, strike ''(D)'' and insert ''(C)''.

On page 103, line 7, strike '', and that'' and all that follows through ''disadvantaged students,'' on page 103, line 10.

On page 103, line 20, strike ''(D)'' and insert ''(C)''.

On page 104, line 22, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 105, line 13, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 105, lines 20 and 21, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 106, between lines 13 and 14, insert the following:

''(C) Not later than 30 days after a State educational agency makes an initial determination under subparagraph (A), the State educational agency shall make public a final determination regarding the improvement status of the local educational agency.

On page 106, lines 22 and 23, strike ''meet proficient levels'' and insert ''make continuous and significant progress towards meeting the goal of all students reaching the proficient level''.

On page 109, line 15, strike ''(C)'' and insert ''(E)''.

On page 112, line 16, strike ''(A)''.

On page 112, line 19, strike ''(3)'' and insert ''(6)''.

On page 112, strike line 23 and all that follows through page 113, line 2.

On page 113, line 14, strike ''(D)'' and insert ''(C)''.

On page 115, line 14, strike ''(D)'' and insert ''(C)''.

At the appropriate place insert:

The current section 1501, U.S. Code, is deleted and replaced with the following:

SEC. 1501. NATIONAL ASSESSMENT OF TITLE I

(a) NATIONAL ASSESSMENT.—The Secretary shall conduct a national assessment of the impact of the policies enacted into law under title I of the Better Education for Students and Teachers Act on States, local educational agencies, schools, and students.

(1) Such assessment shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

(2) The assessment shall examine, at a minimum, how schools, local educational agencies, and States have—

(A) made progress towards the goal of all students reaching the proficient level in at least reading and math based on a State's content and performance standards and the State assessments required under section 1111 and on the National Assessment of Educational Progress;

(B) implemented scientifically-based reading instruction;

(C) implemented the requirements for the development of assessments for students in grades 3–8 and administered such assessments, including the time and cost required for their development and how well they meet the requirements for assessments described in this title;

(D) defined adequate yearly progress and what has been the impact of applying this standard for adequacy to schools, local educational agencies, and the State in terms of the numbers not meeting the standard and the year to year changes in such identification for individual schools and local educational agencies;

(E) publicized and disseminated the local educational agencies report cards to teachers, school staff, students, and the community;

(F) implemented the school improvement requirements described in section 1116, including—

(i) the number of schools identified for school improvement and how many years schools remain in this status;

(ii) the types of support provided by the State and local educational agencies to schools and local educational agencies identified as in need of improvement and the impact of such support on student achievement;

(iii) the number of parents who take advantage of the public school choice provisions of this title, the costs associated with implementing these provisions, and the impact of attending another school on student achievement;

(iv) the number of parents who choose to take advantage of the supplemental services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental services on student achievement; and

(v) the kinds of actions that are taken with regards to schools and local educational agencies identified for reconstitution.

(G) used funds under this title to improve student achievement, including how schools have provided either schoolwide improvement or targeted assistance and provided professional development to school personnel;

(H) used funds made available under this title to provide preschool and family literacy services and the impact of these services on students' school readiness;

(I) afforded parents meaningful opportunities to be involved in the education of their children at school and at home;

(J) distributed resources, including the state reservation of funds for school improvement, to target local educational agencies and schools with the greatest need;

(K) used State and local educational agency funds and resources to support schools and provide technical assistance to turn around failing schools; and,

(L) used State and local educational agency funds and resources to help schools with 50 percent or more students living in families below the poverty line meet the requirement of having all teachers fully qualified in four years.

(b) STUDENT ACHIEVEMENT.—As part of the national assessment, the Secretary shall evaluate the effectiveness of the programs and services carried out under this title, especially Part A, in improving student achievement. Such evaluation shall—

(1) provide information on what types of programs and services are most likely to help students reach the States' performance standards for proficient and advanced;

(2) examine the effectiveness of comprehensive school reform and improvement strategies for raising student achievement;

(3) to the extent possible, have a longitudinal design that tracks a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(c) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measures to assess student performance.

(d) STUDIES AND DATA COLLECTION.—The Secretary may conduct studies and evaluations and collect such data as is necessary to carry out this section either directly or through grants and contracts to—

(1) assess the implementation and effectiveness of programs under this title;

(2) collect the data necessary to comply with the Government Performance and Results Act of 1993.

(e) REPORTING.—The Secretary shall provide to the relevant committees of the Senate and House—

(1) by December 30, 2004, an interim report on the progress and any interim results of the national assessment of title I; and

(2) by December 30, 2007, a final report of the results of the assessment.

AMENDMENT NO. 590

(Purpose: To amend the uses of funds under the Local Innovative Education Programs)

On page 683, strike lines 12 and 13, and insert the following:

''(H) programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs;

On page 684, line 6, strike ''and''.

On page 684, line 7, strike the period and insert a semicolon.

On page 684, between lines 7 and 8, insert the following:

''(O) programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels; and

''(P) supplemental educational services as defined in section 1116(f)(6).

AMENDMENT NO. 591

(Purpose: To amend section 1119 of the Elementary and Secondary Education Act of 1965 regarding professional development activities)

On page 130, strike line 2, and insert the following:

quality of professional development; and

''(J) provide assistance to teachers for the purpose of meeting certification, licensing, or other requirements needed to become highly qualified as defined in section 2102(4).'';

On page 130, line 5, strike the period and insert ''; and ''.

On page 130, between lines 5 and 6, insert the following:

(3) by adding at the end the following:

''(j) REQUIREMENT.—Each local educational agency that receives funds under this part and serves a school in which 50 percent or more of the children are from low income families shall use not less than 5 percent of the funds for each of fiscal years 2002 and fiscal year 2003, and not less than 10 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified within 4 years.''.

On page 127, line 23, insert ''(1)'' after ''(b)''.

On page 127, line 24, strike ''in paragraph (1),''.

AMENDMENT NO. 592, AS MODIFIED

(Purpose: To provide a manager's package of amendments)

On page 29, between lines 14 and 15, insert the following:

''SEC. 16. PROHIBITION ON DISCRIMINATION.

''Nothing in this Act shall be construed to require, authorize, or permit, the Secretary, or a State, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.''.

On page 36, lines 21 and 22, strike ''served under this part''.

On page 36, strike line 24 and all that follows through page 37, line 2, and insert the following:

guage arts, history, and science, except that—

''(i) any State which does not have standards in mathematics or reading or language arts, for public elementary school and secondary school children who are not served under this part, on the date of enactment of the Better Education for Students and Teachers Act shall apply the standards described in subparagraph (A) to such students not later than the beginning of the school year 2002–2003; and

''(ii) no State shall be required to meet the requirements under this part

On page 37, line 18, insert ''and'' after the semicolon.

On page 37, line 23, strike ''; and'' and insert a period.

On page 37, strike line 24 and all that follows through page 38, line 4.

On page 38, line 19, strike ''subparagraph (B)'' and insert ''subparagraphs (B) and (D)''.

On page 41, strike lines 6 through 8 and insert the following:

''(vii) includes school completion or graduation rates for secondary school students and at least 1 other academic indicator, as determined by the State, for elementary school students, except that

On page 41, line 13, strike ''discretionary''.

On page 44, lines 13 and 14, strike ''curriculum''.

On page 45, line 2, strike ''curriculum''.

On page 46, strike line 20 and all that follows through page 47, line 2.

On page 47, line 3, strike ''(E)'' and insert ''(D)''.

On page 47, between lines 6 and 7, insert the following:

''(E)(i) beginning not later than school year 2001–2002, measure the proficiency of

students served under this part in mathematics and reading or language arts and be administered not less than one time during—

''(I) grades 3 through 5;

''(II) grades 6 through 9; and

''(III) grades 10 through 12;

''(ii) beginning not later than school year 2002–2003, measure the proficiency of all students in mathematics and reading or language arts and be administered not less than one time during—

''(I) grades 3 through 5;

''(II) grades 6 through 9; and

''(III) grades 10 through 12;

''(iii) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

''(I) grades 3 through 5;

''(II) grades 6 through 9; and

''(III) grades 10 through 12;

On page 47, line 8, strike ''annual''.

On page 47, line 10, insert ''annually'' after ''standards''.

On page 47, line 11, insert '', and at least once in grades 10 through 12,'' after ''8''.

On page 47, line 12, insert ''if the tests are aligned with State standards,'' after ''arts,''.

On page 48, between lines 14 and 15, insert the following:

''(G) at the discretion of the State, measure the proficiency of students in academic subjects not described in subparagraphs (E) and (F) in which the State has adopted challenging content and student performance standards;

On page 48, line 15, strike ''(G)'' and insert ''(H)''.

On page 49, strike line 7 and all that follows through page 50, line 7, and insert the following:

''(iv) notwithstanding clause (iii), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (excluding the Commonwealth of Puerto Rico) for 3 or more consecutive years, except that if a local educational agency demonstrates to the State educational agency that assessments in another language and form is likely to yield more accurate and reliable information on what such a student knows and can do, then the State educational agency, on a case-by-case basis, may waive the requirement to use tests written in English for those students and permit those students to be assessed in the appropriate language for one or more additional years, but only if the total number of students so assessed does not exceed one-third of the number of students in the State who were not required to be assessed using tests written in English in the previous year because the students were in the third year of the 3-year period described in this clause;

''(I) beginning not later than school year 2002–2003, provide for the annual assessment of the development of English proficiency (appropriate to students' oral language, reading, and writing skills in English) of students with limited English proficiency who are served under this part or under title III and who do not participate in the assessment described in clause (iv) of subparagraph (H);

On page 50, line 8, strike ''(H)'' and insert ''(J)''.

On page 50, line 17, strike ''(I)'' and insert ''(K)''.

On page 50, lines 19 and 20, strike ''scores, or'' and insert ''performance on assessments aligned with State standards, and''.

On page 51, line 1, strike ''(J)'' and insert ''(L)''.

On page 51, line 20, insert '', but such measures shall not be the primary or sole indicator of student progress toward meeting State standards'' after ''measures''.

On page 51, line 21, insert ''Consistent with section 1112(b)(1)(D),'' before ''States''.

On page 52, strike lines 21 and 22 and insert the following:

is applicable to such agency or school;

''(B) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(F), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out of field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

''(C) how the State educational agency will develop or identify high quality effective curriculum models aligned with State standards and how the State educational agency will disseminate such models to each local educational agency and school within the State; and

''(D) such other factors the State deems

On page 53, line 12, strike ''(i)'' and insert ''(j)''.

On page 59, lines 16 and 17, strike ''performance standards,'' and insert ''performance standards, a set of high quality annual student assessments aligned to the standards,''.

On page 59, line 19, insert ''and take such other steps as are needed to assist the State in coming into compliance with this section'' after ''1117''.

On page 68, line 24, strike ''paraprofessionals'' and insert ''a paraprofessional''.

On page 69, line 18, insert '', the setting of State performance standards, the development of measures of adequate yearly progress that are valid and reliable,'' before ''and other''.

AMENDMENT NO. 593

On page 202, delete line 1 through line 4, and insert the following:

''(a) IN GENERAL.—From funds reserved under section 1225, the Secretary shall contract with an independent outside organization for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

''(b) PROCESS.—Such evaluation shall be conducted by an organization outside of the Department that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by States and local educational agencies under this subpart on improving reading instruction. Such evaluation shall use only data relating to students served under this subpart and shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

''(c) ANALYSIS.—Such evaluation shall include the following:

''(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

''(2) An analysis of whether assessment tools used by States and local educational agencies measure the essential components of reading instruction.

''(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

''(4) An analysis of whether the receipt of a discretionary grant under this subpart results in an increase in the number of children who read proficiently.

''(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

''(6) A measurement of the extent to which specific rigorous diagnostic reading and screening assessment tools assist teachers in identifying specific reading deficiencies.

''(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

''(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

''(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

''(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

''(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to States and local educational agencies on a periodic basis for use in program improvement.

AMENDMENT NO. 595

At the end of title IX, add the following:

SEC. . MAINTAINING FUNDING FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 611 of the Individuals with Disabilities Education Act is amended to add the following new subsection:

''(k) CONTINUATION OF AUTHORIZATION.—For fiscal year 2012 and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary for the purpose of carrying out his part, other than section 619.''.

AMENDMENT NO. 512

(Purpose: To authorize programs of national significance)

(The text of the amendment is printed in the RECORD of May 9, 2001, under ''Amendments Submitted.'')

AMENDMENT NO. 435, AS MODIFIED

(Purpose: To support the use of education technology to enhance and facilitate meaningful parental involvement to improve student learning)

On page 369, between lines 6 and 7, insert the following and redesignate the remaining paragraphs accordingly:

''(2) outlines the strategies for increasing parental involvement in schools through the effective use of technology;''.

On page 370, line 24, strike ''and''.

On page 370, line 26, strike the period and insert a semicolon.

On page 371, line 1, insert the following:

''(b) ALLOWABLE USES OF FUNDS.—

''Each local educational agency, may use the funds made available under section 2304(a)(3) for—

''(1) utilizing technology to develop or expand efforts to connect schools and teachers and parents to promote meaningful parental involvement and foster increased communication about curriculum, assignments, and assessments; and

''(2) providing support to help parents understand the technology being applied in their child's education so that parents are able to reinforce their child's learning.''.

On page 371, between lines 23 and 24, insert the following and redesignate the remaining paragraphs accordingly:

''(3) a description of how the local educational agency will ensure the effective use of technology to promote parental involvement and increase communication with parents;

''(4) a description of how parents will be informed of the use of technologies so that the parents are able to reinforce at home the instruction their child receives at school;''.

On page 374, line 24, strike ''and''

On page 378, line 24, strike ''and''.

On page 379, line 1, insert the following and redesignate the remaining subparagraph accordingly:

''(F) increased parental involvement in schools through the use of technology: and''.

AMENDMENT NO. 386

(Purpose: To provide resource officers in our schools)

On page 893, after line 14, add the following:

SEC. ___. SCHOOL RESOURCE OFFICER PROJECTS.

(a) COPS PROGRAM.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (7) by inserting ''school officials,'' after ''enforcement officers''; and

(2) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;''.

(b) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(2) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(3) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended by adding at the end the following:

''(C) There are authorized to be appropriated to carry out school resource officer activities under sections 1701(d)(8) and 1709(4), to remain available until expended $180,000,000 for each of fiscal year 2002 through 2007.''.

AMENDMENT NO. 424

(The text of the amendment is printed in the RECORD of May 14, 2001, under ''Amendments Submitted.'')

AMENDMENT NO. 516, AS FURTHER MODIFIED

(Purpose: To provide for the conduct of a study concerning the health and learning impacts of sick and dilapidated public school buildings on children and to establish the Healthy and High Performance Schools Program)

(The text of the amendment is located in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 804

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. GRASSLEY. Mr. President, I rise in support of the Cochran amendment to the Better Education for Students and Teachers Act. Specifically, I would like to speak to two elements of this amendment that are of particular importance to me and my State of Iowa.

I would first like to speak to a portion of this amendment that address an often overlooked segment of our student population, gifted and talented children. There are approximately three million children in the United Sates who are considered gifted and talented. It is important to point out that these gifted and talented children do not simply possess an extraordinary level of intelligence, but they actually have a unique way of thinking and learning. Gifted and talented children look at the world differently and often have a different way of interacting socially. As a result, gifted and talented students have different educational needs from other students.

These remarkable children have enormous potential. Today's gifted and talented child may grow up to become a leader in the field of science or a world-renowned performer. However, this will not happen automatically. Gifted and talented children need to be challenged and their unique skills must be nurtured. Currently, many gifted and talented children do not receive the educational programs and services they need to live up to their potential. In fact, many gifted and talented children lose interest in school; they learn how to expend minimum effort for top grades, have low motivation, and develop poor work habits. Others abandon their education altogether and drop out of school. This is a tragedy not only for the students, but also for our society.

Much of the Federal role in education is focused on helping Stats to meet the needs of disadvantage students and students with special learning needs. Currently, the availability and quality of gifted and talented educational services varies widely from State to State. This situation adversely affects all gifted and talented students, but especially disadvantaged students. In areas without adequate public school services for gifted and talented students, more well-off parents can afford to place their children in a private school that offers gifted and talented programs or pay for private supplemental equational services like tutors and summer camps. Meanwhile, disadvantaged talented and gifted students remain in public school settings that cannot meet their unique educational needs without federal assistance.

My gifted and talented initiative, which is contained in the Cochran amendment, will help to ensure that ALL gifted and talented students have the opportunity to achieve their highest potential by providing grants, based on State's student population, to State education agencies. These grants will be used to identify and provide educational services to gifted and talented students from all economic, ethnic, and racial backgrounds—including students with limited English proficiency and students with disabilities. My proposal outlines four broad spending areas but leaves decisions on how best to serve these students to states and local school districts.

The legislation ensures that the Federal money benefits students by requiring the State education agency to distribute not less than 88 percent of the funds to schools and that the funds must supplement, not supplant, funds currently being spent. Additionally, rather than simply accepting Federal funds, States must make their own commitment to these students by matching 20 percent of the Federal funds. The matching requirements will help ensure that programs and services for gifted education develop a strong foothold in the States.

The Cochran amendment also reauthorizes the Javits Gifted and Talented Students Education Program. The Javits Program is a research program that funds a national research center and provides grants to a wide range of public and private entities in order to build a nationwide capability to meet the special educational needs of gifted and talented students. The research results from the Javits Program provide invaluable tools to help schools and teachers learn how to identify gifted and talented students and improve gifted and talented programs. I would like to emphasize that, because of the nature of this program, a continued Federal commitment is required. It simply wouldn't be practical or prudent to ask each State to conduct its own research into gifted and talented education. And yet, the research fostered by this program remains essential in ensuring that teachers have the best possible information about how to help gifted and talented students reach their full potential.

I am pleased that my own State of Iowa is one of the leaders in gifted education. Indeed, I have learned of many

remarkable young people and dedicated education professionals through the advocacy efforts of the Iowa Talented and Gifted Association. I have come to believe, strongly, that Congress must support initiatives designed to identify and serve the special learning needs of gifted and talented children.

Our Nation's gifted and talented students are among our great untapped resources. However, our help is needed to ensure that States and local school districts are able to address the unique educational needs of gifted and talented students. In the spirit of the President's challenge to leave no child behind, I would urge my colleagues to remember America's gifted and talented children.

I would also like to express my support for another portion of this amendment that addresses an important educational need in our country. The Cochran amendment reauthorizes provisions for the National Writing Project. The National Writing Project is a nationally recognized nonprofit organization that works to improve student writing achievement by improving the teaching and learning of writing in the Nation's schools. Each summer, successful writing teachers at 167 local sites in 49 States, Puerto Rico, and the District of Columbia attend annual summer institutes through the National Writing Project. At these summer institutes, teachers examine their classroom practices, conduct research, and develop their own writing skills. After completion of one of these summer institutes, the participating teachers return home and provide professional development workshops for other teachers in their home schools and communities. These follow-up activities are conducted throughout the entire academic year in order to maintain and encourage continued use of writing skills. As a result, the National Writing Project is able to reach far more teachers than would be possible through directly administered professional development activities and teachers are able to reap the benefits the whole year long.

I proud to say that the National Writing Project has a long and successful history in Iowa. The Iowa Writing Project was initiated in 1978 and was among the first in the Nation. Since its inception, over 8,000 teachers have taken part in the annual summer institutes. And, this group of teachers has served as the means of administering and conducting workshops and in-service training programs for many more thousands of Iowa teachers. In fact, upon returning home from attending one of those summer institutes, Iowa Writing Project participants can in turn impact as many as fifty percent or more of their fellow educators in their community. Thus, the relatively small number of teachers who participate in the Iowa Writing Project summer institutes can provide professional development opportunities in writing for entire communities.

The success of the National Writing Project has resulted in substantial support in the areas where it has been implemented. In fact, for every dollar of Federal funding, writing project sites generate more than six dollars in support from States, host sites, and other public and private sources. Yet, while the National Writing Project has a regional focus and widespread local support, the 167 local sites could not operate without the coordination and support provided by the national organization. At a time when both institutions of higher education and businesses are increasingly discovering that Americans do not have the writing skills they need to be successful, it is essential that we support proven writing programs, like the National Writing Project.

The two portions of this amendment which I have addressed are examples of areas where there are clear educational needs that cannot be met by states alone and where our existing efforts have proven successful. I support the general goals of the B.E.S.T. bill, including consolidating or eliminating programs that are not working or that interfere with decisions that are more properly made at the State or local level. However, where our efforts have been shown to be successful and needed, our support should be maintained. Therefore, I would urge my colleagues to support the Cochran amendment.

Mr. BINGAMAN. Mr. President, I rise today to thank my colleague from Mississippi, Senator COCHRAN, for including my legislation reauthorizing the smaller learning communities program in his amendment related to national activities. I am also grateful to my colleagues for supporting this amendment. My legislation ensures that the currently authorized and funded smaller learning communities program, which I sponsored during the 1994 reauthorization of the Elementary and Secondary Education Act, continues. This program provides funds to school districts to assist in the creation of smaller learning communities or ''schools within schools.'' This is an extremely important program that we know works to improve student achievement and make our schools safer.

In the past 40 years, schools—especially high schools—have been getting bigger and bigger. In today's urban and suburban settings, high school enrollment of 2,000 and 3,000 are commonplace; in some places like New York City school enrollments near 5,000. Research demonstrates that students in schools of this size do not perform as well as students in smaller schools and large schools are less safe.

Research also has shown that small schools and large schools broken down into smaller learning communities are superior to large schools on virtually every measure of educational success. Student achievement is higher in small school environments. Students in these schools tend to have higher grades, test scores, and honor roll membership, even when other variables such as teacher quality or community characteristics are considered. Furthermore, students from small school environments are more likely to finish high school. They also are more likely to be admitted to college, do well once they are there and complete their studies. These results are even more pronounced for minority and low-income students. Because teachers have fewer students in smaller schools they can know their students better, minority and low-income students are less likely to be overlooked. As a result, the creation of smaller learning communities can be an effective way to address the achievement gap between poor students and their more affluent peers.

Smaller learning environments also address non-academic learning because they provide an environment where students can learn how to participate actively in their school community. Student attitudes are overwhelmingly more positive in small schools. Students are far more likely to be involved in extracurricular activities than students in large schools. In order to have a sufficient number of players on the team or members of the club, all students must participate in small schools. In contrast, in large schools many students do not have a chance to participate in these important school experiences unless they display some special talent. Research has demonstrated that participating in extracurricular activities contributes significantly to student learning and makes it less likely that the student will drop out of school or have poor attendance.

Smaller learning communities also result in safer schools. Large school environments tend to promote feelings of isolation and alienation. In contrast, smaller learning communities promote a sense of belonging and community. Since there is an undisputed relationship between students' feelings of alienation and school violence, the creation of smaller learning communities is a very effective strategy for preventing the occurrence of acts of school violence that have become tragically commonplace in schools across the country in recent years. In smaller learning environments, problems in interpersonal relationships or other difficulties can be addressed before they lead to violence. Because teachers can get to know all students on a personal level, smaller learning communities go a long way towards ensuring that all students feel they belong and that they are safe. This makes the creation of smaller learning communities an important method of preventing school violence.

Smaller learning communities also help to decrease teacher attrition and therefore improve the quality of instruction. Teachers working in smaller learning environments often feel that they have more opportunity to teach instead of dealing with paperwork and discipline problems that are more common in larger school environments.

Under such circumstances, teacher morale is improved making good teachers less likely to ''burn out.''

I have been advocating for small schools and the creation of smaller learning communities for a number of years. The smaller learning community program was first authorized in 1994. The program was funded in FY 2000. Last year, a total of 354 schools serving over 400,000 high school students in 39 States were awarded grants to plan, develop and implement strategies that would personalize the learning environment for students.

The legislation allows for local decisionmaking with respect to how to build smaller learning communities. Some of the most common strategies include: (1) creating career academies that offer students academic programs organized around a broad career theme, often building on team teaching methods; (2) implementing mentoring systems in which teachers, counselors, and other school staff advise students on a personal level; and (3) creating schools within schools so that smaller groups of students take all or most of their classes together—often from the same team of teachers and/or administrators and often operating in distinct areas of the school facility. All of these strategies are designed to create a more individualized learning environment.

In my home State of New Mexico, the Albuquerque School District received a substantial grant under this program last year, which will allow them to create smaller learning communities in six of their high schools and hopefully with additional funding through this program they will be able to do so in all of the city's high schools. I was able to visit one of these schools recently and see the good work being done with some of the funding from this program. I visited Cibola High School, where they have created a school-within-a-school for ninth graders with their small schools grant. Taking into account evidence of a high drop out rate at ninth grade, the faculty at Cibola decided to move all of the ninth graders into one corridor and divide them into five teams. Each team of teachers meets together two to three times a week to discuss instructional strategies and any concerns about students on their team. The grant allowed them to hire four more teachers reducing pupil/teacher ratios. They also created two lunch periods within the school so that the ninth graders have their own lunch. Preliminary data indicates that the work at Cibola has been quite successful. The drop out rate declined from 9 percent to a little over 1 percent. Eighty-six percent of the ninth graders earned all of their credits last year and moved on to the tenth grade. Students, teachers and parents continually comment on how the new arrangements has helped students to be successful. The schools reports that students feel safer and less worried about the transition to high school. Teachers comment that they enjoy teaching more since there are fewer discipline problems and they have more opportunity to work with students one-to-one. I have a letter from Linda Sink, the principal at Cibola High School, summarizing the success at the school.

I also note that teachers and administrators in schools in Las Lunas, NM were also delighted to receive a smaller learning communities grant last year. They are confident that the career academy, which will open in August 2001, funded through this grant will do much to improve the educational experience of their students. This academy will offer core academic content within the context of career programs in pre-engineering, electronics, culinary arts, criminal justice, education and health services.

No doubt small schools in themselves are insufficient to address all of the problems that are facing our nation's educational system. But the strategy of reorganizing our large schools into smaller learning communities is a proven method of reform which attacks many if not most of the challenges facing schools today. Throughout the history of education parents of means have sent their children to small schools because they have known that in smaller schools their children will have the opportunity to connect with adults who care about them and can give consideration to their learning needs. With your support, small schools can continue to be created in order to provide children with learning environments that help all children succeed.

AMENDMENT NO. 386

Mr. BIDEN. I ask unanimous consent that Senators HOLLINGS, BINGAMAN, LANDRIEU, CLELAND, and JOHNSON be added as original cosponsors to my amendment.

This amendment is fairly simple, and I hope all of my colleagues can support it.

It would extend the Justice Department's school resource officer program for 6 years. It authorizes $180 million per year through 2007 for the wildly successful COPS in Schools Program. This is the same amount appropriated for the program in each of the last 2 years, the same amount requested by the administration in its Budget, and it's enough money to hire 1,500 resource officers per year.

This is a great program. Police departments and schools get together and they file their application jointly, based on the community's needs. To date, the Justice Department has funded over 3,800 school resource officers. They are 3 year grants, totaling up to $125,000 per officer. That's about $40,000 per year, usually enough to fund the officer's whole salary.

Why offer this amendment now. Well, the bill before us is designed to improve our schools, but without my amendment it does not include dedicated funds to hire school resource officers. And authority for COPS in Schools, one of the most successful school safety programs out there, expired last year.

My amendment has been endorsed by the National Association of School Resource Officers, by the National School Safety Center, by the Center for the Prevention of School Violence, by the National Education Association, and by the Fraternal Order of Police.

Why do school safety experts, line officers, the resource officers themselves, and the heads of police departments across the country, and educators support this amendment. Because they know COPS in Schools works. They know school resource officers can help quiet troubled schools halls, can quickly stop a violent incident, and can mentor students.

What are school resource officers. These are specially-trained police officers, men and women who work in and around elementary schools, middle schools, and high schools. They work with teachers, parents, and kids to identify and combat school-related crime and disorder problems. They get to know the students. They are their counselors and their role models, and, when necessary, they enforce the law.

D.A.R.E. police officers would be eligible to receive funding under this amendment, just as they are under the current COPS in Schools program.

I recently sat down with all of the school resource officers in Delaware. My State has embraced the concept, today, 16 members of the Delaware State Police serve as school resource officers. So do two members of the Wilmington Police Department, and one Newark police officer.

And about 1 year ago, I held a field hearing on school safety at the William Penn High School in Delaware. One of the witnesses was Delaware State Police Corporal Jeff Giles. Jeff told me low successful he has been as a school resource officer, how the kids feel safer, the school is more secure, and parents and teachers are put at ease.

This program works, COPS in Schools is a success. Let me tell you a story: When a high school in my State, Lake Forest High School, tried to phase out its school resource officer because of a lack of funds, the kids walked out. They walked out of school to protest Corporal Gary Fournier's, dismissal! The kids would not let their school resource officer go, they liked having him around so much. We found some funds that let the school keep Corporal Fournier on, but it should never have come to that.

Now, I was pleased the appropriators saw fit to include $180 million for COPS in Schools last year. And it looks like the Administration wants to continue the program at the same level this year. But year-to-year appropriations are no substitute for a multi-year authorization.

Schools need to have assurances this is a program that's here to stay. City

councils and other local governing bodies need to be able to pass their budgets knowing the Federal Government is there to help. Today, as we debate this education bill, authority for the whole COPS program has expired and with it, the COPS in Schools program's future is unclear.

That just shouldn't be the case. A lot of these school resource officers are heroes, and we shouldn't end the program that helps fund them. Take a look at the tragic shooting this past March in Granite Hills High School in El Cajon, CA. Local officials there have stated that but for the quick response of Rich Agundez, that school's resource officer, lives may have been lost. In the weeks following this shooting, San Diego school officials decided to station resource officers in all of their 180 schools.

We should help communities like San Diego. We should make sure they hear the message, loud and clear, that this Senate agrees with them. Let's give school resource officers to every school that wants one. Let's give parents a little peace of mind that their kids are safe when they get on that school bus and head off to learn. Let's give teachers a hand in maintaining order in their classrooms.

Let's pass my amendment and fund the COPS in Schools program. It works. It works, and I challenge any of my colleagues to tell me otherwise.

AMENDMENT NO. 640 WITHDRAWN

Mr. KENNEDY. I ask consent, further, to withdraw amendment numbered 640.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask consent following final passage, until the close of business today, the two managers be permitted to add a managers' amendment to the bill, provided that the amendment is agreed to by both leaders and both managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the Jeffords substitute amendment No. 358 is agreed to.

The question is on the engrossment and third reading of the bill.

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

RURAL EDUCATION

Mr. BAUCUS. Mr. President, I rise today to shift the direction of the education debate for a moment. For the past few weeks, we have been debating now best to engage the Federal Government in ways to improve our K–12 schools. There has been a lot of constructive debate on a number of important topics. An amendment that I planned to offer, S.A. 387, would have addressed another important topic relative to our schools: recruitment and retention of teachers in rural areas.

I have spoken with Senator KENNEDY and agreed to withdraw my amendment, but I want to speak for a moment about its importance. My amendment would have increased the scope of current loan forgiveness provisions for teachers, including an expansion of eligibility to those teachers who teach in districts identified within the Rural Education Achievement Program.

I offered this amendment because there is a significant need in our rural schools for assistance in attracting and keeping good teachers. My amendment may have helped that situation.

I understand that the issue of rural teacher recruitment and retention is one that needs further investigation, though, and am pleased that Senator KENNEDY has agreed to address the needs of rural schools in Senate HELP Committee hearings. We need to better understand rural needs and find effective ways to provide our rural schools, home to roughly 17 percent of students throughout the country, with the resources they need to delivery a quality education.

Mr. KENNEDY. Thank you for bringing this important matter before us in the Senate. I agree with you that we should take a closer look at the needs of our rural schools, and I look forward to looking at how different mechanisms, including teacher loan forgiveness programs, can help meet the needs of our rural schools.

Mr. BAUCUS. Thank you, Senator, for giving your attention to this issue of great importance to rural schools in my home State of Montana and throughout the country

AMENDMENT NO. 505

Mr. BINGAMAN. Mr. President, yesterday we passed amendment No. 505 by unanimous consent. The amendment relates to BIA schools. The legislation was considered by the Indian Affairs Committee and the amendment was cosponsored by the distinguished Chair and Ranking Member of that Committee. I would like to note for the record that the Navajo nation has some concerns regarding some of the provisions in that amendment. I understand that Senators INOUYE and CAMPBELL are working with my office and representatives of the Navajo nation to address those concerns. I'd like to ask Senator INOUYE if my understanding is correct?

Mr. INOUYE. We are working to address those concerns and hope to be able to make any necessary changes to the amendment in conference.

Mr. BINGAMAN. I'd like to thank my distinguished colleagues for their efforts. I also ask my Chair, Senator KENNEDY, for his assistance during the conference to make any necessary amendments to the underlying bill.

Mr. KENNEDY. I would be happy to work with Senator BINGAMAN on making any necessary changes related to this amendment during the conference.

Mr. JEFFORDS. Mr. President, with the passage of the Elementary and Secondary Education Act of 1965, there has always been broad support for the Federal Government to provide assistance and leadership to the States and localities, the entities that serve as the primary sources for implementing our education system. Over these past 36 years, we have had thoughtful debates regarding the Federal role in both establishing and overseeing education policy. Through these spirited discussions, we have tried to create initiatives that emphasize excellence for all students.

Over the past 3 years, the Health, Education, Labor, and Pensions Committee has closely examined elementary and secondary education. In the 106th Congress, two dozen hearings were held regarding the ESEA reauthorization. One of the very first hearings the committee held this year featured Secretary Paige and focused on the President's education initiative.

All 20 members of the HELP Committee worked together to draft S. 1 and unanimously voted the bill out of committee. Following committee action, I and several of my colleagues worked with the White House to further refine the committee bill that has now passed the Senate.

S. 1, the Better Education for Students and Teachers Act, begins a new chapter that not only sets goals designed to improve student performance, but provides a road map for achieving those goals. With the leadership of President Bush, and the leadership of many Senators from all parties, we have, before us, legislation that better targets resources and provides greater accountability at both the State and local levels.

Our goal must be to ensure that every child will obtain the knowledge necessary to succeed in our society and in our economy. To ensure progress toward this goal, the legislation before us will establish accountability measures for every school, school district and State in the country, so that the public can see whether or not they are making annual academic progress.

The House and Senate conferees will soon begin their work in putting together a final product that will hopefully not set unrealistic goals and undermine our overall goal of leaving no child behind. If we are not very careful, the result of our efforts might be havoc rather than help for our education system and the students it is designed to serve.

I look forward to continuing to work with all of my colleagues in writing a conference report that will provide the foundation for every child in this Nation to receive a quality education.

I would like to take this opportunity to thank Senator KENNEDY, Senator GREGG, and the other members of the committee. I would like to join the managers in thanking all of the committee staff for their hard work. Particularly, I would like to thank my staff, Sherry Kaiman, Susan Hattan, Scott Giles, Jenny Smulson, Andy Hartman, Justin King, Carolyn Dupree, Leah Booth, Ann Clough, Sallie Rhodes, and Frances Coleman for their efforts. I also want to thank Wayne Riddle and Jim Stedman from the Congressional Research Service and Mark

Koster, Liz King, and Bill Baird from the Office of Legislative Counsel for their tremendous contribution in shaping S. 1.

Mr. BIDEN. Mr. President, education is, and should be, among our top priorities here in the Senate.

Parents know that the quality of a child's education can make or break that child's future. Businesses understand that they cannot compete in this high-tech world without a well trained and well educated workforce.

That is why what we are doing here today, and have done in the past few weeks is so important.

We have had an opportunity to put aside partisan differences to craft a federal education policy that will strengthen schools, increase accountability, empower parents, and give our teachers and administrators the resources they need to give our children the education they deserve.

In many respects, we have been successful. The bill itself takes some positive steps toward improving public education in America. It provides for annual testing of students and a process for identifying and turning around failing schools. It requires that high standards be set for all students. It targets federal education resources towards the students who need the greatest assistance. It includes a new early reading initiative to promote literacy. Ands it contains other important provisions to help increase parental involvement in their children's education.

In addition, we were able to make a number of key improvements to the underlying bill during the Senate debate. The bill now includes language calling for full funding of title I for disadvantaged children and full funding of the federal commitment to educate children with disabilities. We increased funding for bilingual education and after-school programs. We provided additional funding to improve and modernize resources in school libraries. We passed additional changes to make sure that States use high quality tests to gauge the progress of students. And we passed an amendment that I was proud to cosponsor that will help recruit more teachers.

I am also pleased that the Senate accepted my amendment to provide $180 million to put more school resource officers in our schools. These officers are specially trained to prevent school violence and to quickly respond to crimes, while serving as mentors and role models and providing guidance to students.

Despite these important steps that we have taken, I must say that I am truly disappointed by some missed opportunities.

We missed an opportunity to make reducing class sizes a priority when the Senate voted against Senator MURRAY's amendment to increase funding for the 100,000 teacher initiative and ensure that it is not consolidated with other teacher quality programs.

We missed an opportunity to help our States renovate and build new schools when the Senate voted against Senator HARKIN's amendment to reauthorize a bi-partisan school construction plan.

But above all else, we missed an opportunity to resolve the issue of adequate funding for all the education reforms that this bill requires.

The truth is, we can stand here and make eloquent speeches about all these needed changes in our education system, many of which I wholeheartedly support, but without the resources to back up these eloquent words, nothing will change. I am hopeful that even more resources can be directed toward education during the conference committee negotiations and though the annual appropriations process that will begin shortly.

I believe that on the whole this bill takes a dramatic step in the right direction. It improves accountability, empowers parents, and begins to make the types of investments that our teachers and students deserve and need.

Mr. GRASSLEY. Mr. President, I rise in support of the education reform bill. I am encouraged by the renewed emphasis President Bush and many in Congress have placed on education and I welcome this opportunity to share my views on this important subject.

Improving elementary and secondary education has long been a goal of those of us in Congress. However, for too long, the debate at the Federal level has focused on the same old ideas that boil down to more spending without ensuring results and more Federal control of local schools. That is why I am pleased that President Bush has put forward a plan for education that takes us in a new direction. S. 1, the Better Education for Students and Teachers Act, encompasses the President's main goals and puts the Federal role in education on the right track.

Since 1965, when Congress embarked on its first elementary and secondary education initiative, the Federal Government has continued to expand its role in the area of education. Yet, while the Federal role in education has increased, accountability has not. The Federal Government continues to spend more and more on education while creating complicated and overlapping programs that may or may not address the needs of local schools. In fact, research has shown that, while Federal funding for education has increased substantially over the last 30 years, students' test scores have not shown improvement.

The BEST Act seeks to change this situation by taking steps to ensure accountability for the use of Federal education dollars. Under this bill, States will be required to develop their own strategy to measure improvement and hold schools and school districts accountable through the use of State-run assessments. In this way, schools and school districts that fail to help students achieve can be identified so that assistance can be provided and necessary corrective action taken.

Going hand in hand with the need for greater accountability is the necessity for increased flexibility for States and local school districts. Part of the problem of stagnant student achievement despite increased Federal funding is that Federal funding comes with a disproportionate degree of Federal control. Federal micro-managing of classrooms ties the hands of teachers and can actually prevent them from meeting the individual needs of students.

We in Washington must face the fact that we cannot possibly know what's best for every school in America. My home State of Iowa contains a wide variation of school districts from rural to urban. Students in Des Moines are likely to have different needs from those of students in Lineville. What works in Davenport may not work in Sioux Center. How then can we in Washington direct Federal funding to meet the needs of all the students of Iowa, much less vastly different regions of our country, without providing for a substantial degree of local control? If States are to meet tough new goals for student achievement, they must be given the freedom to do so without having their hands tied by unnecessary Federal regulations. This bill does just that by consolidating related programs into more flexible block grants and allowing schools to waive certain Federal regulations in return for results.

It is also essential that parents have the opportunity for greater involvement in their child's education. Under the BEST Act, school report cards will be issued so that parents will have information on the quality of their child's school, and support will be given to local educational agencies and nonprofit organizations to implement parental involvement programs that are designed to improve student performance. In addition, parents of disadvantaged students in failing schools will be given the choice to move their children to a better school.

In closing, while this bill does provide for a substantially increased investment in elementary and secondary education, it does so in a framework of real reform that provides greater flexibility to states and local school districts in return for demonstrated results. This bill represents a shift from the old Washington-knows-best view of education to one which empowers states, local communities, and parents to improve student achievement. President Bush has called on us to ensure that no child in America is left behind. The Better Education for Students and Teachers bill will put us on course to meet that challenge.

Mr. LEAHY. Mr. President, I rise today to express my support for the innovative and far-reaching legislation before us, the Better Education for Students and Teachers, BEST, Act. The Senate for several weeks has been considering this reauthorization of the Elementary and Secondary Education Act, ESEA, which was first enacted in

1965 as part of President Johnson's war on poverty. While the anchor of this law has always been title I—a program to provide support to low-income and disadvantaged students—ESEA has evolved over the past 35 years to also include important professional development, technology and after-school programs. The bill before us today makes significant changes to education policy, reflecting our commitment to make the Federal Government an effective partner in reforming the nation's public schools. We all hope these reforms will be the right ones for our children. While I do have some concerns about the commitment of the President and my colleagues on the other side of the aisle to adequately fund the programs in the BEST Act, I am willing to take them at their word, to leave no child behind.

During the Senate's consideration of the BEST Act, a variety of amendments offered by Senators on both sides of the aisle have been considered. I would like to take a moment to highlight just a few of these.

First, I want to express my thanks and appreciation to the managers of this bill, Senators KENNEDY and GREGG, for accepting an amendment offered by Senator HATCH and myself to re-authorize Department of Justice grants for new Boys and Girls Clubs in each of the 50 States. In 1997, I was proud to join with Senator HATCH and others to pass bipartisan legislation to authorize grants by the Department of Justice to fund 2,500 Boys and Girls Clubs across the Nation. This bipartisan amendment authorizes $60 million in Department of Justice grants for each of the next five years to establish 1,200 additional Boys and Girls Clubs across the Nation. These grants will bring the total number of Boys and Girls Clubs to 4,000 to serve 6,000,000 young people by January 1, 2007.

In my home State of Vermont, this long-term Federal commitment has enabled Vermonters to established six Boys and Girls Clubs, in Brattleboro, Burlington, Montpelier, Randolph, Rutland, and Vergennes. Indeed, Vermont's Boys and Girls Clubs received more than $1 million in Department of Justice grants since 1998. I am hopeful this amendment will ensure future funding for these successful youth programs.

Some of the most publicized and often-discussed provisions of the BEST Act are the expanded requirements for student assessment, specifically the annual testing of schoolchildren in Grades 3 through 8. The legislation will require states to establish comprehensive assessment systems in order to evaluate the achievement of their schools and students. Accountability in education is important. Parents, students, teachers, and taxpayers should know how their schools are performing. However, it is important that testing be used as a diagnostic tool in an overall assessment system and not become a reform in its own right. Tests should measure school progress based on standards that are part of a high-quality curriculum. My home State of Vermont has a fine tradition of high expectations in education and currently has in place a comprehensive framework for school standards and accountability. I am hopeful that the new role of the Federal Government outlined in the legislation before us will reinforce, not undermine, state and local efforts to improve student performance.

For small States—like Vermont—the costs associated with implementing a large-scale assessment system can be prohibitively expensive. During consideration of the BEST Act, the Senate approved two key amendments that will help lessen the burden on the States. First, the Senate overwhelmingly passed an amendment to require that the Federal Government provide at least 50 percent of the costs of developing and administering the testing requirements in the underlying bill. If the Federal Government does not provide these funds, the States will not be required to administer the tests.

Second, the Senate adopted an amendment to have the General Accounting Office conduct a study to evaluate the true costs to the States for the testing provisions. This report will be completed prior to the implementation of the Best Act's assessment requirements. If the GAO finds the costs to be higher than anticipated, the Senate should return to the issue. We must not require reform from our States—especially small States without providing the necessary resources to support those reforms. We must not set our schools and students up for failure.

In addition to these important testing-related improvements, the Senate also approved an amendment to fully fund the Federal Government's portion of the Individuals with Disabilities Education Act, IDEA. This is a crucial issue and one that education officials back in our home States have been pushing for—for the Federal Government to fulfill its responsibility. The Senate also agreed to authorize full-funding for the title I program, a strong reflection of our commitment to providing resources to schools that educate low-income and disadvantaged students.

While several other amendments were approved that will strengthen the BEST Act, I was pleased that the Senate rejected some proposals that would have weakened our commitment to public school education. In particular, I was pleased that the Senate rejected an amendment that would have directed public dollars to private schools. I have long had concerns about using Federal tax dollars to support private schools through vouchers. Although I support the options private schools provide for some of our Nation's youth, our primary responsibility must be to ensure that our public schools are the best they can possibly be in order to give our children the education they deserve. Rather than send precious public funds to private or religious schools, we must ensure that all public schools in the United States have the resources to provide a high quality education for all of our Nation's children.

By approving the legislation before us today, we will be taking the first step toward enacting quality education reform in our Nation's schools. The second step will come later in the year when Congress and President Bush determine the funding level for these Federal programs. In recent days many of my colleagues have spoken about the need for adequate funding for these reform efforts. I want to add my voice to that debate. Unless we commit ourselves to providing the resources necessary for States to carry out the reforms outlined in this bill, we will be doing serious harm to our children.

I will vote in support of this bill today with the belief that it will improve the educational and learning opportunities of the school children in Vermont and across the Nation. I urge my colleagues to continue our commitment to education and to provide the resources necessary to ensure that this far-reaching legislation achieves its goals.

Mr. WARNER. Mr. President, I rise today in strong support of S. 1, the Better Education for Students and Teachers Act (the ''BEST'' Act), which will reauthorize the Elementary and Secondary Education Act. (''ESEA'').

President Bush has appropriately indicated that education reform is his number one priority. The BEST bill, which is based on the President's blueprint, is premised on the President's goal: ''No Child Left Behind.'' I share the President's goal. Our educational system must leave no child behind.

Education is the key to a better quality of life for all Americans. From early childhood through adult life, educational resources must be provided and supported through partnerships with individuals, parents, communities, and local government. The federal government has a limited, but important role in assisting states and local authorities with the ever-increasing burdens of education.

Originally passed in 1965, the ESEA provides authority for most federal programs for elementary and secondary education. ESEA programs currently receive about $18 billion in federal funding, which amounts to an estimated 7 cents out of every dollar that is spent on education.

Nearly half of ESEA funds are used on behalf of children from low-income families, under Title I. Since 1965, the federal government has spent more than $120 billion on Title I.

Despite the conscientious efforts of federal, state, and local entities over many years, our education system continues to lag behind other comparable nations. Nearly 70% of inner city fourth graders are unable to read at a

basic level on national reading tests. Fourth grade math students in high poverty schools remain two grade levels behind their peers in other schools. Our high school seniors score lower than students in most industrialized nations on international math tests. And, approximately one-third of college freshman must take a remedial course before they are able to even begin college level courses.

The underlying issue is—do we just pour more taxpayer dollars to perpetuate these mediocre results or do we take some bold new initiatives?

Increased federal education funding, increased state and local flexibility in their use of federal funds, and increased accountability are all components of this bill that are steps in the right direction.

First, in regard to funding, Republicans, Democrats, and Independents will continue to support increased education funding. Last year, nearly $44.5 billion was appropriated to the Department of Education. This was a $6.6 billion increase from Fiscal Year 2000 levels. Without a doubt, education will receive another significant increase this year when Congress passes the appropriations bill that funds the Department of Education.

Next, in regard to flexibility, the BEST bill significantly increases state and local flexibility in the use of their federal education dollars.

In the current fiscal year, the ESEA funds over 60 programs. Most of these programs have a specified purpose and a target population.

Our schools do not need a targeted one size fits all Washington, D.C. approach to education. While schools in Boston, Massachusetts may need to use federal education dollars to hire additional teachers to reduce classroom size, schools in other parts of the country may wish to use federal dollars for a more pressing need, like new text books. Federally targeted programs for a specified purpose do not recognize that different states and localities have different needs.

Who is in a better position to recognize these local needs, Senators and Representatives in Washington, D.C. or Governors, localities, and parents? Those Virginians serving in state and local government and serving on local school boards throughout the Commonwealth are certainly in a better position than members of Congress from other states to determine how best to spend education dollars in the Commonwealth of Virginia.

The BEST Act increases flexibility and local control. The Straight A's provisions of this bill and the Teacher Empowerment provisions serve as two good examples.

The Straight A's provisions of this bill creates a 7 state and 25 district demonstration program. Under the program, 7 states and 25 districts that choose to participate gain the flexibility to consolidate a number of federal formula grant programs and integrate these federal dollars with state and local monies that serve children.

In addition, S. 1, in its Teacher Empowerment provisions, consolidates the targeted and inflexible class size reduction programs and the targeted Eisenhower Professional development program. The money in these programs is consolidated so states and localities can use these funds for a variety of options, including hiring additional teachers, retaining high quality teachers, developing professional development programs, or to hire mentors, to name a few of the numerous options.

Straight A's and the Teacher Empowerment provisions are key components of the increased flexibility provided in the BEST bill.

Finally, accountability, in certain areas, is needed. Our education policy is locking out many students and not providing them the key to a better life. It's time to move forward in education to ensure that all of our children are given the opportunity to receive a higher quality of education.

Let's seize this challenge.

President Bush's proposal to test students annually in grades 3–8 in reading and math, which is part of the BEST bill, is a strong proposal that promotes accountability.

These tests will result in parents and teachers receiving the information they need to know to determine how well their children and students are doing in school and how well the school is educating. Testing also provides educators the information they need to help them better learn what works, improve their skills, and increase teacher effectiveness.

While some have expressed concern that President Bush's proposal calls for too much testing, I have a different view. A yearly standard test in reading and math will allow our educators to catch any problems in reading and math at the earliest possible moment. Tests are becoming a vital part of life, no matter how onerous. If America is to survive in the rapidly emerging global economy, tests are a key part.

I note that Virginia has already recognized the importance of testing, having installed an accountability system called the Standards of Learning (SOLs). In Virginia, we already test our students in math and science in grades 3, 5, and 8. The accountability provisions in the BEST bill will augment the Commonwealth of Virginia's Standards of Learning.

Mr. President, in summary, the evidence demonstrates that the $120 billion spent on elementary and secondary education since 1965 has produced mediocre results, at best. This bipartisan legislation is a step in the right direction, and I look forward to President Bush ultimately signing education reform legislation into law.

Mr. LEVIN. Mr. President, for nearly 2 months the Senate has been debating reform measures that would establish new goals for our teachers, our schools, our students and their parents. These substantial and creative measures passed the Senate today as part of the reauthorization of the Elementary and Secondary Education Act.

The legislation focuses on improving student achievement, student performance, and school success through expanding accountability provisions, increasing resources, improving technical assistance, and providing mechanisms intended to help turn around schools which are falling short. The bill seeks to ensure that local education agencies and States have the resources over the next four years to put a highly qualified teacher in every classroom. This provision also includes an amendment that I offered which provides that the professional development training authorized for these teachers also include training in the use of computer technology to improve student learning in core academic subjects.

The bill also provides for over 125,000 new teachers to be paired with mentors and to have the opportunity for yearlong internships. The Reading First provisions of the legislation authorize an important new initiative that provides nearly $1 billion for States and local school districts to improve reading education, and help teachers get ready to ensure that all children become proficient readers by the end of the third grade. I am pleased that an amendment I offered, to permit funds under this program to be used for family literacy programs, was adopted.

The bill also authorizes partnership grants, a new initiative designed to boost achievement in the areas of math and science through strengthening and training and recruitment of highly qualified teachers; and continues the ''Preparing Tomorrow's Teachers to Use Technology'' program, which trains teachers in the use of technology in the classroom.

Mr. President, this legislation contains extremely complicated testing requirements. I have reservations about the utility of such a federal mandate, given the tests that are already administered in my State of Michigan. However, because I support the essential reforms also included in this legislation, I have decided, on balance, to support the bill.

Mr. FEINGOLD. Mr. President, the Senate is about to vote on one of the most important pieces of legislation that we will debate this year. The Elementary and Secondary Education Act has provided the framework for the Federal role in education for more than 35 years. The bill currently before us, the Better Education for Students and Teachers Act, will chart the course for the Federal role in education for the next seven years and beyond.

I strongly support maintaining local control over decisions affecting our children's day-to-day classroom experiences. The Federal Government has an important role to play in supporting our States and school districts as they carry out one of their most important

responsibilities the education of our children.

Every child in this country has the right to a free public education. Every child. That is an awesome responsibility, and one that should not have to be shouldered by local communities alone. The States and the Federal Government are partners in this worthy goal, and ESEA is the document that outlines the Federal Government's responsibilities to our Nation's children, to those who educate them, and to our States and local school districts.

It is with this bill that we must find the right balance between local control and Federal targeting and accountability guidelines for the Federal dollars that are so crucial to local school districts throughout the United States.

Ninety percent of American children attend public schools. More than 879,000 young people in my home state of Wisconsin are enrolled in public schools, from pre-school through grade twelve. I am a graduate of the Wisconsin public schools, and I am proud to say that all four of my children have attended them as well.

The legislation before us has generated vigorous debate in Wisconsin. I have heard from parents, teachers, school board members, school administrators, school counselors and social workers, state officials, and other interested observers. And their comments are clear: they say that the Congress must not undermine the targeted measures aimed at improving education for disadvantaged students. They say that we must live up to our commitment to fully fund the Federal share of elementary and secondary education programs.

If we are, as President Bush has said, to ''leave no child behind,'' we should ensure that the programs created to help the most vulnerable children are fully funded.

We should fully fund title I, we should fully fund the Federal share of the Individuals with Disabilities Education Act (IDEA), we should fully fund Head Start, we should fully fund Impact Aid, and we should fully fund these programs in a fiscally responsible manner.

For too long, the Federal Government has failed to live up to its promise to fund these and other important education programs. During this debate, some of our colleagues have argued that money is not the only answer, and they are partially correct. In Wisconsin, however, where the State imposes limits on the amount of money that school districts can raise and spend annually, Federal funding is absolutely critical. I have heard time and again from frustrated school board members who have to make the tough decisions about which programs to fund and which programs to cut. In this time of economic prosperity, we should not pit groups of students against each other for scarce education dollars.

In that regard, I am pleased that the Senate has passed amendments to this legislation that authorize the full funding of title I and of IDEA.

Nevertheless, I cannot support a bill that includes a new, largely unfunded Federal mandate for annual testing in grades 3–8. As I noted earlier in this debate, the response to this proposal from the people of my state is almost universally negative. My constituents oppose this proposal for many reasons, including the cost of developing and implementing additional tests, the loss of teaching time every year to prepare for and take the tests, the linking of success on these tests to ESEA administrative funds, and the pressure that these additional tests will place on students, teachers, schools, and school districts.

I am pleased that the Senate adopted amendments to help to ensure that these tests are of a high quality, to award bonuses to States for developing high quality tests rather than for the speed with which the testing program is implemented, and to require a study by the General Accounting Office on the true costs of these tests to the States. I am also pleased that the Senate adopted an amendment to increase the funding provided for these tests by the Federal Government, but I remain concerned that this bill still falls far short of authorizing enough funding for this new Federal mandate.

I am concerned that this bill does not do enough to ensure that local school districts will have the resources to help students be successful on these tests. I am disappointed that the Senate failed to adopt an amendment offered by the Senator from Minnesota, Mr. WELLSTONE, of which I was an original cosponsor, which would have modified the annual testing provisions to clarify that States would not have been required to implement the annual tests unless title I is funded at $24.7 billion by July 1, 2005, funding levels consistent with the Dodd-Collins amendment adopted by the Senate.

I was also pleased to cosponsor an amendment offered by the Senator from South Carolina, Mr. HOLLINGS, which would have allowed a State to opt out of the new federal testing requirements if the State already has comparable accountability measures in place. Many States and local school districts around the country, including Wisconsin, have such programs. We should leave the means and frequency of assessment up to the States and local school districts who bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may not be the best approach.

I have also heard from a number of my constituents that this Congress should do nothing that would undermine the good that the Federal Government's support has done to help states and local school districts over the last several years. They told me that we should not undermine the progress that we have made in smaller class sizes, in technology education, in standards-based reform, and in accountability for results.

I regret that this bill does not authorize class size reduction as an independent program. And I particularly regret that the amendment to reinstate this program that was offered by the Senator from Washington, Mrs. MURRAY, was defeated. I am baffled by the argument put forth by some of our colleagues that smaller classes mean less to students than the presence of a good teacher in the classroom. I would argue that both are important. Of course, a good teacher makes a huge difference. But even the best teacher in the country will have far better results with 18 students instead of 50.

My home state of Wisconsin is a leader in the effort to reduce class size in kindergarten through third grade. The Student Achievement Guarantee in Education, SAGE, program is a statewide effort to reduce class size to 15 students in kindergarten through third grade.

The SAGE program began during the 1996–1997 school year with 30 participating schools. Now in the program's fifth year, there are nearly 600 participating schools.

According to the recently-released program evaluation for the 1999–2000 school year, conducted by the SAGE Evaluation Team at the University of Wisconsin Milwaukee:

''When adjusted for pre-existing differences in academic achievement, attendance, socioeconomic status and race, SAGE students showed significant improvement over their Comparison school counterparts from the beginning of first grade to the end of third grade across all academic areas.''

The study also found that ''teaching in reduced size classrooms is characterized by more individualization, time spent on teaching rather than disciplining, class discussion, hands on activities, content coverage, and teacher enthusiasm.''

The results speak for themselves. Smaller classes translate to better instruction and better achievement.

The education community in my State is also deeply concerned and I share this concern about proposals that would shift scarce Federal tax dollars away from the public schools they are intended to support.

I commend the work of the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Vermont, Mr. JEFFORDS, and others who have worked so diligently these past weeks to negotiate compromise language with the Administration on many of the issues that remained outstanding following the HELP Committee's mark-up of this legislation. I regret that I am unable to support this compromise for a number of reasons.

I am troubled by language in this compromise that would require school districts to use up to 15 percent of their Title I money to pay for supplementary services or transportation for public school choice for students in schools

that have failed to make adequate yearly progress for three years. This provision would mean that a school that is already in trouble would have as little as 85 percent of its Title I money available for school programs. If Congress agrees to divert badly-needed Title I money for supplemental services, it is all the more urgent that we fully fund the Title I program.

I am also concerned about the so-called ''Straight A's'' performance agreement pilot program that is included in the bill. This provision would allow seven States and 25 districts in effect to block grant most of their ESEA funding. I am pleased that this provision stipulates that this funding cannot be used for private school vouchers and that it can only be used for specified activities. I am also pleased that individual school districts within the seven States that participate in this program may apply to opt out of the State's performance agreement.

Supporters of this provision use terms like ''consolidation of Federal funds'' and ''flexibility,'' but let's be honest. This is a block grant. This new version of the Straight A's proposal is an improvement over earlier versions, but I remain concerned about the impact this consolidation of funds will have on proven programs such as class size reduction, 21st Century Community Learning Centers, and Safe and Drug Free Schools; and on professional development for teachers and other school professionals.

I regret that the Senate did not adopt an amendment offered by the Senator from Connecticut, Mr. DODD, to remove the 21st Century Community Learning Centers from this block grant, an amendment which I supported and which was supported by many of my constituents.

Another reason I will oppose this bill is the inclusion of an amendment offered by the Senator from Alabama, Mr. SESSIONS, pertaining to discipline procedures for special education students. This amendment is a huge step backward in the fight to protect the civil rights of disabled students, and I hope that the conferees on this bill will work to improve this language to ensure that those rights continue to be protected.

In closing, this debate gave us the opportunity to strengthen public education in America. Unfortunately, many of the provisions contained in this bill may, in fact, undermine public education by blurring the lines between public and private, between church and State, and between local control and Federal mandates. I must therefore oppose the bill, and I urge my colleagues to do the same.

IN SUPPORT OF OUR NATION'S TEACHERS

Mr. WARNER. Mr. President, I rise once again today in support of the over 3,000,000 teachers in this country.

In the early days of the debate on this education bill, I, along with Senator COLLINS, offered a Sense of the Senate amendment on May 8, 2001. This amendment, which passed by a vote of 95–3, stated:

> the Senate should pass legislation providing elementary and secondary level educators with additional tax relief in recognition of the many out of pocket, unreimbursed expenses educators incur to improve the education of our Nation's students.

Later, on May 23, 2001, on the tax reconciliation bill of 2001, the Senate passed a Collins-Warner amendment to provide teachers with such tax relief. The amendment passed the Senate by a vote of 98–2.

I worked with Senator COLLINS on this amendment because I recognize that individuals do not pursue a career in the teaching profession for the salary. People go into the teaching profession for different personal commitments—to educate the next generation, to strengthen America.

While many people spend their lives building careers, our teachers spend their careers building lives.

Simply put, to teach is to touch a life forever.

How true that is. I venture to say that every one of us can remember at least one teacher and the special influence he or she had on our lives.

Even though we are all well aware of the important role our teachers play, it goes without saying that our teachers are underpaid, overworked, and all too often, underappreciated.

In addition to these factors, our teachers also expend significant money out of their own pocket to better the education of our children. Most typically, our teachers are spending money out of their own pocket on: one, education expenses brought into the classroom—such as books, supplies, pens, paper, and computer equipment; and, two, professional development expenses—such as tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors.

These out-of-pocket costs place lasting financial burdens on our teachers. This is one reason our teachers are leaving the profession. Little wonder that our country is in the midst of a teacher shortage.

Estimates are that 2.4 million new teachers will be needed by 2009 because of teacher attrition, teacher retirement and increased student enrollment.

While the primary responsibility rests with the states, I believe the Federal Government can and should play a role in helping to alleviate the nation's teaching shortage.

Here is an example of such help. On a Federal level, we can encourage individuals to enter the teaching profession and remain in the teaching profession by reimbursing them for the costs that teachers voluntarily incur as part of the profession. This incentive will help financially strapped urban and rural school systems as they recruit new teachers and struggle to keep those teachers that are currently in the system.

With these premises in mind, Senator COLLINS and I offered the Collins-Warner amendment to the Tax Reconciliation Act of 2001.

This amendment which, again, passed the Senate in a vote of 98–2, had two components. First, the legislation would have provided a $250 tax credit to teachers for classroom supplies. This credit recognizes that our teachers dip into their own pocket in significant amounts to bring supplies into the classroom to better the education of our children.

Second, this legislation would have provided a $500 above the line deduction for professional development costs that teachers incur. This deduction would particularly help low-income school districts that typically do not have the finances to pay for professional development costs for their teachers.

Unfortunately, this important Collins-Warner amendment was not included in the tax legislation that emerged from conference. Thus, the tax relief measure signed into law by President Bush did not contain the Collins-Warner amendment.

The education legislation that will pass the Senate today, the Better Education for Students and Teachers Act, the BEST Act, is based on a principle put forth by President Bush entitled, ''No Child Left Behind.''

As we move towards final passage of legislation that will implement reforms to achieve the goal of ''Leaving No Child Behind,'' we must keep in mind the other component in our education system—the teachers. If we fail to accord equal recognition to our teachers, our children will be left behind.

Therefore, let me be clear: Senator COLLINS and I will not forget our teachers.

Senator COLLINS and I will continue to work hard to ensure that our teachers receive recognition in the tax code for the many personal and financial sacrifices they make to better the education of America's youth.

Mr. DOMENICI. Mr. President, I rise today to discuss the ''Better Education for Students and Teachers Act.''

Education no longer simply involves students learning the fundamentals of reading, writing, and arithmetic. Rather, students must possess the resources to compete and succeed as we proceed into the new, highly technical millennium.

The computer and the Internet have become integrated into every aspect of our lives, and are becoming essential teaching tools in our schools and a basic component of any classroom. To meet this challenge, we must strive for innovative ideas and to determine exactly how we can maximize the Federal government's resources because: Even on its best day the Federal Government can never be a replacement for local administrators, educators, and parents.

Simply put, New Mexicans are in a far better position to know exactly

what our schools and students need than government officials here in Washington.

Most Washingtonians probably do not know the Corona School District has 82 students, the Deming School District has 5,300 students, and the Albuquerque School District has 85,000 students. Additionally, the Gallup School District encompasses nearly 5,000 square miles, an area greater than Rhode Island and Delaware combined.

My point is simple, a one-size fits all approach cannot work in New Mexico and will not work in many areas of our country. Consequently, we must have solutions that are flexible and meet the diverse needs of our States, school districts, and schools. I would like to take a couple of minutes and provide my perspective on how we arrived at the point we are today with the BEST Bill.

Not too long ago during the mid 1990's a number of us came to the conclusion that the current K–12 education status quo could no longer be maintained. I think this realization may have been spurred by Senator FRIST's excellent work as the chair of the Senate Budget Committee Task Force on Education.

The Task Force produced: Prospects for Reform: The State of American Education and the Federal Role. The report asked the simple question of ''how well are our children doing?''

The answer was mediocre at best because student achievement had stagnated over the past two decades even though America had established a record of near universal access and completion of high school. Thus, the report concluded that we must address the issue of a quality educational system. In other words the need for academic competence and rigor.

Building upon the excellent work of the Task Force, Senator FRIST soon introduced the ''Education Flexibility Partnership Act of 1999'' commonly referred to as ''Ed-Flex.''

The Bill simply said: one-size does not fit all and thus, States should be allowed to waive-out of the regulations pertaining to certain Federal K–12 Education programs. ''Ed-Flex already existed as part of a demonstration program and Senator FRIST's Bill merely sought to provide all fifty states with that same flexibility.

The Senate passed the Bill overwhelmingly by a vote of 98–1 and within a month the President had signed the measure into law. Unfortunately, after the passage of ''Ed-Flex'' for a variety of reasons there was not any further fundamental changes made to our K–12 system.

Instead, since the last reauthorization of the ESEA in 1994 there is one approach that we learned is a complete failure: merely providing more funding.

In 1996 the Federal Government spent about $23 billion on education and within a few short years the number ballooned to over $42 billion in FY 2001. The logical conclusion is that a near doubling of educational funding would result in dramatic improvements in student achievement.

Sadly, for all of our funding we simply do not have the matching results.

For instance, in 1996 the average reading score for a 4th grader was 212 and the Federal Government spent about $11 billion on the ESEA. Five years later, Federal spending on the ESEA had nearly doubled to $20 billion, while the average reading score of a 4th grader remained at 212.

In New Mexico, the number of 4th graders testing at or above proficient in reading actually fell from 23 percent in 1992 to 22 percent in 1998. I would submit that we are not receiving a very good return on our investment, a near doubling of funding with no corresponding improvement.

Imagine saving a greater and greater portion of your paycheck each week and after five years actually having less money. I think it is fair to say that very few individuals would stand for these results, if instead of students we were talking about our retirement savings.

Thus, we are now debating the BEST Bill because many of us believe we simply must have a new approach to measuring academic success.

The Bill fundamentally alters the practice of Washington deciding the best educational practices and then distributing increasingly greater and greater sums of money without any accountability. Make no mistake, we have not abandoned our commitment to providing the necessary resources to our States and school districts.

In fiscal year 2001 ESEA spending totaled $18.4 billion. President Bush's FY 2002 Budget proposal requested a $19.1 billion authorization for ESEA for FY 2002, a nine percent increase.

Building upon the President's proposal, the FY 2002 Budget Resolution includes the President's nine percent increase in federal education spending for reading education, the Individuals with Disabilities Education Act, IDEA, and teacher training. I think it is also important to note that on May 3 when the Senate began debate, the BEST Bill already authorized $27.7 billion for ESEA in FY 2002, a 57-percent increase over 2001 and nearly $190 billion over the authorization period of FY 2002–2008.

If one does not believe that is enough then you will be interested to hear how much spending we have added since May 3: $11 billion in ESEA and other education spending for a total of $38.8 billion in FY 2002, an increase of 120 percent over FY 2001; $211 billion in ESEA and other education spending for a total of $416 billion over the seven year authorization period of the Bill; and of that total, $112 billion is mandatory spending under the Individuals with Disabilities Education Act, IDEA.

With the preceding as a backdrop, I believe the BEST Bill follows the President's promise to ''Leave No Child Behind'' by ensuring academic success through a fresh approach to education.

Our schools will be held accountable for their progress in educating our children through high standards, testing, and consequences for failure. Every child in grades 3–8 will be tested in reading and math proficiency annually.

In New Mexico alone about 151,000 students will be tested. Also, the State will receive an additional $4.5 million next year and more than $33 million over the next seven years to offset any new costs.

Instead of simply continuing to receive increased Federal funding in the face of failure, schools will now face consequences for persistent failure. Schools failing to demonstrate improvement will face corrective action, parents will be given the option of public school choice and supplemental services for their children, and ultimately a school's persistent failure could lead to reconstitution.

Consolidation of duplicative education programs will provide maximum local flexibility to focus on improving student achievement. For instance, Title II of the BEST Bill creates a new State Teacher Development grant program with a substantially larger pot of money by combining all of the current teacher funding.

States will have the option to use the funding for professional development; teacher mentoring; merit pay; teacher testing; as well as recruiting and training high quality teachers. For example, New Mexico maintains a commendable student-teacher ratio of 15.2 and under the Bill will no longer be required to use a portion of these funds for class size reduction.

Instead, New Mexico will have the option to use that money for teacher recruitment and retention programs or maybe additional training.

The new accountability provisions will ensure that historic increases in Federal education funding will be based upon school performance.

The Bill includes the President's ''Reading First'' initiative to ensure all children in kindergarten through third grade become proficient readers by the end of third grade. The Bill also includes programs to create Math and Science Partnerships, Strengthen After-School Care, and provide for Early Childhood Reading Instruction.

Parents and the public will be given detailed school-by-school Report Cards on the performance of their schools. Parents will have the option to transfer their child from a failing public school to an effective public school with transportation provided or to redirect their child's share of Federal funds toward tutoring or after-school academic services.

Parents will be given the option to transfer their child out of a persistently unsafe public school to another public school of their choice. As Congress proceeds, one of its primary missions will be to determine what is working, what is not working, and what can be improved to give our children a better chance of succeeding in the future.

Before I conclude, I would like to briefly talk about several provisions that are of personal importance to me.

First, Senator DODD and a bipartisan group of Senators joined me earlier this year to introduce the ''Strong Character for Strong Schools Act.''

I think it is important to note that reform does not only apply math, science, and reading; instead we must also reform the culture of our schools. Our Bill will be part of an amendment offered by Senator COCHRAN and seeks to encourage the creation of character education programs at the State and local level by providing grants to eligible entities.

I believe our Bill builds upon the highly successful demonstration program to increase character education that was contained in the last ESEA Bill. Since 1994, the Department of Education has made $25 million in ''seed money'' grants available to 28 states to develop character education programs.

Currently, there are 36 States that have either received Federal funding, or have enacted their own laws mandating or encouraging character education. Thus, the time is now to ensure that there is a permanent and dedicated funding source available for character education programs.

I also believe schools must not only have the resources for core missions like teaching reading, writing, math, and the sciences, but the additional resources to face emerging challenges. Thus, I am extremely pleased the Senate has accepted an amendment authored by Senator KENNEDY and I to increase student access to mental health services by developing links between school districts and the local mental health system.

School districts would partner with mental health agencies, juvenile justice authorities, and any other relevant entities to better coordinate mental health services by: improving preventive, diagnostic, and treatment services available to students; providing crisis intervention services and appropriate referrals for students in need of mental health services and continuing mental health services; and educating teachers, principals, administrators, and other school personnel about the services.

Finally, we must provide our school districts and schools with the resources to both recruit and retain the best available teachers for our children.

Earlier this year I introduced the ''Teacher Recruitment, Development, and Retention Act of 2001.''

I am very pleased to see elements of that Bill included in the pending legislation. I am also grateful the Senate has accepted my amendment that will allow States the option of using Teacher Quality funds for the creation of Teacher Recruitment Centers.

Teacher Recruitment Centers will serve as statewide clearinghouses for the recruitment and placement of K–12 teachers. The Centers would also be responsible for creating programs to further teacher recruitment and retention within the state.

Thank you and I look forward to the working with my colleagues on this important issue and final passage of this Bill.

Mrs. FEINSTEIN. Mr. President, the bipartisan bill that the Senate has developed over the last 2 months makes major reforms in education policy by focusing on student achievement and by making schools accountable for results. California's public schools should be strengthened by this bill.

This bill includes several important reforms.

The bill extends the current requirement that states must have academic standards for reading and math and also requires states to establish standards for science and history.

Students must reach a proficient level within ten years by making continuous and substantial academic improvement.

To ensure that students are learning, states are required to test every student in grades 3–8 annually in reading and math based on state standards.

To ensure accountability, schools that fail for two consecutive years to make adequate yearly progress must be identified for improvement and also must identify specific steps to improve student performance.

Local school districts must correct failing schools and states must correct failing districts either through new curriculum, restructuring the school, or reconstituting the school staff.

In order to improve teacher quality, this bill authorizes grants to states for teacher certification, recruitment, and retention services.

The bill enhances programs for limited English proficient children by providing teacher training and funds for programs to improve the English proficiency of these students.

The bill authorizes $1.5 billion for afterschool programs to help struggling students get tutoring and other help.

There are many other important provisions.

It is my hope that this bill will offer opportunities for progress to many California students, school officials, parents and the public.

California students perform very poorly compared to students in many other states. Our schools are struggling on virtually every front. California has some of the largest classes in the nation; California has overcrowded and substandard facilities; California has 30,000 uncredentialed teachers and a projected enrollment rate triple that of the national rate.

Here are some examples of how California's schools fall short:

Thirty-four percent of California's schools that participate in Title I are identified for improvement compared to the national average of 19 percent, according to the U.S. Department of Education.

Only 20 percent of California's fourth grade students are proficient in reading, ranking thirty-six out of thirty-nine states. California ranks thirty-two out of thirty-six states for proficient eight graders in reading, at twenty-two percent, according to Education Weekly Quarterly Report, January 2001.

California is ranked seventh in the Nation for the highest number of Level I Literacy citizens, the worst level possible, according to the National Institute for Literacy.

California spent $5,462 per student in 1999, approximately $1,500 less than the U.S. average, ranking 42nd out of 50 states, according to Rankings and Estimates; NEA Research, October 1999.

Now let's compare U.S. students to students in other countries. Students in the United States also perform poorly compared to their international counterparts.

In literacy, 58 percent of United States high school graduates rank below an international literacy standard, dead last among the twenty-nine countries that participated, according to Education Week, April 4, 2001.

U.S. eighth graders scored significantly lower in mathematics and science than their peers in fourteen of the thirty-eight participating countries, according to 1999 TIMMS Benchmarking Study.

The percentage of teachers in the United States that feel they are ''very well prepared'' to teach science in the classroom is 27 percent. The international average is twice that, peaking at 56 percent, according to 1999 TIMMS Benchmarking Study.

U.S. students' knowledge of civic activities ranked third out of the 28 countries that participated. However, those same students have been slipping in scores relating to math and science. Source: Civic Know-How: U.S. Students Rise to Test, International Association for the Evaluation of Educational Achievement.

I am very pleased that the Senate approved several amendments that I suggested.

One, title I funding: The bill revises the funding formula for title I, Education of Disadvantaged Children, to better reflect the growth in poor students for States with growing student populations, giving California an increase of $98 million over fiscal year 2001, at the President's fiscal year 2002 budget request level.

Two, title I use of funds: In an effort to better focus title I funds on academic instruction, the bill prohibits school districts from using funds for the purchase or lease of privately-owned facilities, facilities maintenance, gardening, landscaping, janitorial services, payment of utility costs, construction of facilities, acquisition of real property, payment of travel and attendance costs at conferences or other meetings, other than travel and attendance for professional

development. This is similar to the bill I introduced, S. 309.

Three, title I audit: The bill requires the Inspector General to conduct of audit to determine how title I funds are used and the degree to which they are used for academic instruction.

Four, master teachers: The bill includes my amendment to allow use of the teacher training funds in the bill for school districts to create master teacher positions so school districts can increase teacher salaries for excellent teachers to mentor and supervise other teachers, in an effort to keep new teachers in teaching. This is an outgrowth of a bill I introduced on January 22, S. 120.

Five, small schools: The bill allows the use of Innovative Education funds, title V, for States and districts to build smaller schools. The upper limits on the number of students would be for elementary schools, 500 students; middle schools, 750 students; and high schools, 1,000. This parallels my bill, S. 308.

Six, HeadStart teachers: The bill allows forgiveness of up to $5,000 of federal student loans for college graduates who agree to teach in Head Start programs, in an effort to put more trained teachers in pre-school programs, similar to S. 123, which I introduced on January 22.

Seven, gun-free schools clarification: The bill includes several clarifications of the current Gun-Free Schools Act, the law which requires a one-year expulsion for students who ''bring'' a gun to school. This bill (1) includes students who ''possess'' a gun at school; and (2) clarifies that the term ''school'' means the entire school campus, any setting under the control and supervision of the local school district; and (3) requires that all modifications of expulsions be put in writing.

It is a good bill. American education should benefit immensely from this bill. Now the task is to provide sufficient funding and other resources to our schools to implement the reforms we are passing.

I look forward to working for the bill's final enactment.

Mr. McCONNELL. Mr. President, I rise today in support of S. 1, the Better Education for Students and Teachers, or BEST Act. Debate on this bill has provided the Senate with an important opportunity to assess the Federal Government's role in educating our children. It has given us the chance to strengthen the programs which are working and to reform those that are not. Most importantly the Senate has taken this opportunity to empower parents, teachers and local administrators with new flexibility and resources, so that we can achieve the fundamental goal of our schools: helping every student learn.

America's continued prosperity demands a well-educated workforce. In their lifetimes, our children and grandchildren will witness scientific and technological advances which are unimaginable today. Yet, their ability to take advantage of these marvels will be dependent upon a strong foundation in the fundamentals of learning—reading, writing, math, and science. After all, a computer is nothing but a useless plastic and metal box, if a student doesn't know how to use it. Likewise, the Internet, with all its possibilities, is meaningless if a child can't read the words on the screen.

Over the course of this debate, the American people have had the opportunity to view two contrasting visions for our Nation's schools. For far too long, the vision of too many has been based on the Washington-knows-best philosophy of the last 35 years. Under this mind set, for every possible problem in our schools, the Federal Government should design a new Government program with new government regulations and a new government bureaucracy. For instance, the Federal Government provides only seven percent of total spending on education yet demands 50 percent of all school paperwork. This requires 25,000 education professionals struggling to fill out forms in order to comply with Washington's onerous regulations rather than teaching students. What folly and what a colossal waste of time, talent, and resources.

Under this flawed approach, a program is accountable if its triplicate forms' are turned in on time and all the ''I's'' are dotted and their ''T's'' are crossed. Whether the program actually helps students learn has too often been an afterthought. Simply put, school districts are told to make their problems fit the federal government's so-called ''solutions'' rather than allowing schools the flexibility to design their own appropriate solutions.

This leads one to the question ''Has this approach worked?'' Not surprisingly, it hasn't.

Unfortunately, too many American children are falling behind. A recent study found that U.S. fourth graders are ranked third in the world in science and compete favorably against their international counterparts in math. This same study shows that by the time these kids reach middle school, they finish near the middle of the pack in math and science. Worse still by high school, U.S. students rank 19th among 21 industrial nations in Mathematics and 16th in Applied Sciences, Third International Mathematics and Sciences Study. These results are unacceptable. How can we tolerate a system in which the longer American students spend in school, the further they fall behind? We should not fool ourselves into thinking that America's international competitors will sit idly by as we struggle to catch up. We must improve our schools now in order to ensure that America's students are prepared to compete and succeed at the highest levels.

Another failing of this Washington-knows-best vision is the belief that more money will magically solve all that ails our nation's schools. Let there be no doubt, resources are important and I am committed to providing substantial increases in education funding. In each of the past 2 years, Republicans in the Senate not only met President Clinton's education funding requests, but exceeded them by billions of dollars. However, money is only part of the answer. The title I program was enacted in 1965, in an attempt to close the achievement gap between poor students and their wealthier counterparts. Thirty-five years and $165 billion later, poor students still lag far behind their wealthier peers by an average of 20 points on national achievement tests. Worse yet, a recent appraisal by the National Assessment of Education Progress found that the achievement gap among fourth grade students is growing even wider—NAEP, 4/6/2001.

I am proud to say that President Bush, through his ''no child left behind'' blueprint, has offered us a better vision. This legislation expresses the obvious truth that parents, teachers, principals, and administrators have a better understanding of the needs of their students than the Washington bureaucrats who will never meet these children, never learn their names, and never come to understand their hopes and aspirations. This legislation provides States and local schools unprecedented flexibility to design and implement programs tailored to their needs with one requirement: results.

For the first time in history, we will establish a blueprint for holding schools accountable for producing results. States will be required to set high standards and demonstrate progress as measured by annual assessments. Now I recognize that annual testing is not the cure for poor performing schools, much the same way that an x-ray cannot heal a broken bone. But the x-ray will allow us to better understand the problems and more importantly, better develop the solutions. Testing will help parents and teachers evaluate their students and schools, determine which are struggling and why, and then ensure they receive the help they need to meet high academic standards.

In a perfect world, these assessments would show that all of our children are learning and that all of our schools are preparing them for the future. Unfortunately, experience tells us otherwise. Therefore, we must be prepared to provide both the resources to help those schools which are committed to change and consequences for those which refuse. For those schools that spurn reform and chronically underperform, I believe we must allow parents choices—whether that be public school choice, supplementary tutoring services, or a private institution. I believe this point was best expressed by the editorial board of one of my home state newspapers, The Paducah Sun, when it encouraged the President and Congress to ''change the formula for reform by putting power in the hands of parents—not education bureaucrats who have a

vested interest in protecting the status quo.'' I am pleased this bill takes some positive, first steps in that direction by providing low-income children with expanded access to charter schools, other public schools, and private tutors. I am deeply disappointed, however, the Senate rejected Senator GREGG's very modest proposal to provide these same children in chronically poor performing schools with the option of attending a private school.

While the President's accountability and assessment provisions are clearly the hallmark of the BEST Act, one should not overlook several of the other key provisions included the bill. The President has stated that every child should read by the third grade and the BEST Act incorporates his ambitious ''Reading First'' initiative to meet that goal.

It also includes a new teacher empowerment initiative which allows school districts increased flexibility in solving their unique professional development problems: whether that is through hiring new teachers, retraining current ones, instituting professional development programs, recruiting other mid-career professionals, or reducing class size.

I am also pleased that the BEST Act includes the Straight A's Demonstration championed by my colleagues, Senator GREGG and Senator FRIST. Straight A's is the embodiment of local control. This demonstration project would allow seven States, and up to 25 local school districts, to receive most of their Federal funds in the form of a single federal grant. In exchange for this unprecedented flexibility, the participating school systems would be required to meet even higher standards of academic achievement than already required in the BEST Act. Jefferson County Public Schools, the largest school district in Kentucky, has expressed an interest in securing one of these Straight A's waivers and I hope this fine school system is given full consideration.

Over the past several weeks, the Senate has engaged in an earnest and lively debate. I am particularly proud of an amendment I authored which the Senate adopted ''The Paul D. Coverdell Teacher Protection Act.'' This legislation builds upon the work of our colleague, Senator Coverdell, by extending liability protections to teachers, principals, administrators who act in a reasonable manner to maintain order in the classroom. I am honored that the Senate adopted this amendment in an overwhelming 98–1 vote, and I look forward to working with the BEST Act's conferees to ensure that it is included in the final conference report.

This is not a perfect bill. At times during this debate, the Senate has succumbed to the easy temptation to create more of the narrowly targeted Government programs designed to satisfy needs of one interest group or another. I believe the Senate could have better served America's local schools by simply providing them the necessary resources and allowing them the flexibility to design solutions which will meet their particular needs.

However, while I may not agree with every amendment the Senate has adopted, I believe that on balance this legislation will empower parents, teachers, and local administrators with new flexibility and resources, so that we can achieve the fundamental goal of our schools: helping every child learn.

DIAGNOSIS AND PARTNERSHIP

Mr. GRAHAM. Mr. President, two of the concepts that I am pleased to have included in this legislation are the principles of ''diagnosis'' and ''partnership.''

I would like to thank Senators KENNEDY and GREGG for their assistance in including this amendment in this legislation.

I am also very happy to be joined by my colleague GEORGE ALLEN of Virginia as the lead Republican sponsor of this amendment.

I can put a human face on this.

I have done several workdays in schools facing this situation in throughout Florida.

These workday experiences taught me that when students struggle to meet performance standards, there is not one uniform cause of failure.

Because of that, there cannot be one uniform remedy to turn a school around.

School ''A'' may need a revised curriculum, or better qualified teachers.

While school ''B'', whose students are scoring at the exact same level as school ''A'' may need English-language tutors and eyesight screening for poor children who may not have had a vision test in their lives.

Perhaps the single most important action a school or a school district, can take at the first sign that students are struggling is a thorough analysis of circumstances and conditions that are impacting student achievement.

It's my belief that this analysis should not only encompass factors that are within the school walls, but outside the school walls, in the community, as well.

Before we start applying remedies to a struggling school from a menu of options—let's take the first step and understand what the specific challenges this particular school faces are.

It's common sense.

I use an analogy of a physician: she must first diagnose the specific ailment, then she can prescribe the proper treatment.

It's important that this same ''diagnosis'' step be included in each and every State education plan in America.

This leads to part two: Encouraging partnerships.

In the course of identifying the particular challenges facing a struggling public school, what happens if one or more of the factors impacting student performance are outside the school?

What if one of the reasons that third graders are struggling to read is a very high percentage of adult illiteracy in the school district?

What if one of the reasons 8th graders are failing at math turns out to be a high absenteeism rate because of safety concerns on the walk to school?

Such a finding needs be made public—and the school, county, State and Federal Government, along with community-based groups, should be encouraged to creatively build appropriate partnerships.

These partnerships can then get to work and try to mitigate outside-the-school concerns.

My wife Adele brought to my attention a school in North Florida, Andrew Robinson Elementary in Jacksonville.

Principal Erdine Johnson, of Andrew Robinson Elementary school, realized that many of her students could not do their best in the classroom because of a wide range of health concerns.

Instead of just declaring that ''this was a 'health' not an 'education' issue'' the North Florida community sprung into action, and we have a success story today.

In 1995, the University of Florida worked with Andrew Robinson to open a pediatric health center on-site.

This pediatric center at Andrew Robinson offers services to the elementary school students, and provides health outreach to the community.

The staff members at the Center are a vital link between a child's home environment and their ability to learn in the classroom.

The Center works with parents on nutrition and wellness issues, and provides preventative screenings for the children.

Children living in healthy environments are more ready to learn, and that has meant better test scores, and better lives.

This is an example of what our amendment encourages—if a problem outside the schools is identified—we encourage creative community partnerships to help solve it.

Several organizations have joined Senator ALLEN and me in support of our amendment.

I would like to include for the RECORD a letter of support from Daniel Merenda, the President and CEO of the National Association of Partners in Education.

He says, ''Many of the problems facing our students are not because of the schools. These problems are created by circumstances and conditions found beyond the school.''

Once the information is made public about specific concerns outside the school walls, Mr. Merenda predicts the creation of new partnerships and the strengthening of existing partnerships.

I agree with his assessment.

I also have a letter of support from the education organization Communities in Schools, headquartered in Senator ALLEN's state of Virginia.

And the Points Of Light Foundation also endorses this amendment in a letter I would like to submit for the RECORD.

I want to again thank Senator ALLEN for working with me on this issue, and offer thanks to my colleagues for accepting this amendment by voice vote.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTNERS IN EDUCATION,
Alexandria, VA, April 26, 2001.

Hon. BOB GRAHAM,
Hart Senate Building,
Washington, DC.

DEAR SENATOR GRAHAM, I write to support your suggested ''Diagnosis'' language for the ESEA Reauthorization. As you know the National Association of Partners in Education represents thousands of schools, communities and businesses throughout America who form effective partnerships to support student success in and out of school. Our national network of 7,500 members coordinates the work of millions of volunteers in schools.

We recently completed Partnership 2000: A Decade of Growth and Change, a national survey of school districts in the United States. The study examines school partnerships in a decade during which education topped America's national agenda. This survey of school partnerships provides a ''next chapter'' to the baseline data we collected in 1990. The survey shows that schools in 69% of districts nationwide are now engaged in partnership activities compared to 51% in 1990. Over 35 million students benefit from school partnerships today, 5.3 million more than in 1990. Nearly 3.4 million volunteers serve in America's school partnerships, roughly one for every 14 children in our schools. Volunteers log approximately 109 million hours of work in and out of schools, roughly equivalent to 52,000 full-time staff.

In light of these data, your suggested ''diagnosis'' language makes sense. If community and business partners were aware of the specific problems facing a school and causing students to struggle, they could direct their energy and attention to ''fixing'' the problem in and around the schools. Schools can not do it alone.

Many of the problems facing our students are not because of schools. These problems are created by circumstances and conditions found beyond the school. Partnerships are an ideal mechanism to address and resolve these problems. Your suggested language for the reauthorization of ESEA will require that schools or school districts take appropriate steps to partner with community groups to mitigate the problem.

Senator Graham, the data we have collected indicates community partners are contributing time equivalent to 52,000 full time staff to our schools . . . at no additional cost. Can you imagine what this force could do if schools facing problems were to ask for help? Your suggested language added to the reauthorization of the ESEA could make a significant and real contribution to the thousands of students who are in failing schools.

Let me know how we can help. We need the reauthorization of the Elementary and Secondary Education Act to truly help America's school children. Your amendment does exactly that.

Sincerely,

DANIEL W. MERENDA,
President and CEO.

COMMUNITIES IN SCHOOLS,
Alexandria, VA, May 3, 2001.

Hon. BOB GRAHAM,
Hart Senate Building,
Washington, DC.

DEAR SENATOR GRAHAM: I am writing to support your suggested ''diagnosis'' language for the Elementary and Secondary Education Act reauthorization. I have served for 25 years as president of Communities In Schools, the nation's leading community-based organization helping young people stay in school and prepare for life. Our network has grown to serve more than 2,300 schools, providing access to community resources for over 1.3 million students. Based on our experience, I am completely convinced that school/community partnerships are the most effective way to support student success when non-academic factors must be addressed.

If schools and students do not perform well, the community stands ready to help. A careful diagnosis of the reasons behind poor performance, followed by a strong partnership-building effort with community stakeholders, will turn around an ailing school. I have seen it happen time and again.

Please let me know if I can be of help to you. Your amendment to the ESEA is critically important to our nation's children.

Most sincerely,

WILLIAM E. MILLIKEN,
President.

POINTS OF LIGHT,
May 4, 2001.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Building,
Washington, DC.

DEAR SENATOR GRAHAM, I would like to take this opportunity to lend our support to your ''Diagnosis'' language for the Reauthorization of the Elementary and Secondary Education Act (ESEA). The Points of Light Foundation was founded in 1990 with the mission to engage more people, more effectively in volunteer service to help serious social problems.

The Foundation works in conjunction with over 470 Volunteer Centers cross the nation in building a grassroots service infrastructure in order to address each community's most pressing social dilemmas. As you know, all to often, youth are disproportionately affected by negative societal forces. We have found that the building of diverse, multi-sector community coalitions, in addressing youth issues, is one of the most effective protective factors. Your amendment directly facilitates the creation and implementation of such coalitions.

In closing I would like to commend you on your proactive approach to ESEA Reauthorization and wish you the very best success in mitigating those negative forces impacting our nation's youth.

Sincerely,

ROBERT K. GOODWIN,
President and CEO.

Mr. REED. Mr. President, as we come to the end of the debate on the Elementary and Secondary Education Act, ESEA, reauthorization bill, I would like to share my thoughts on the bill. I plan to support S. 1, the Better Education for Students and Teachers, BEST, Act, but not without serious reservations.

We have been working on this legislation for 3 years now, and we certainly have made some needed improvements over current law. The bill contains tougher accountability, more along the lines of what Senator BINGAMAN and I pressed for back in 1994. For the first time, States, districts, and schools will be held accountable for improving the academic performance of all students. Moreover, the bill requires the timely identification of failing schools so additional resources and support can be supplied to help those schools turn around, coupled with real consequences if that failure continues. We will have to be vigilant, however, to ensure that the accountability system is workable, and not weakened, during Conference.

Over the past few weeks of debate, key amendments have passed, adding further value to the legislation. One such amendment was offered by Senators HARKIN and HAGEL to increase funding for IDEA by annual increments of $2.5 billion until the full 40 percent share of funding is reached in fiscal year 2007. This amendment also frees up at least $28.9 billion, and up to $52.5 billion, in education funds by shifting IDEA funding from discretionary to mandatory funding. This amendment serves two worthy and important goals: meeting our commitment to fully fund IDEA and by doing so, freeing up some of the needed resources for title I and other elementary and secondary education programs.

I was pleased to support this extremely important amendment, as well as two amendments by Senator WELLSTONE to improve the testing regime in the bill. The first amendment ensures that the assessments meet relevant national testing standards and are of adequate technical quality for each purpose for which they are used. The Wellstone amendment also provides grants to States to enter into partnerships to research and develop the highest quality assessments possible so they can most accurately and fairly measure student achievement. The second amendment makes the quality of the test, rather than speed in developing the test, the factor for determining bonuses for states.

As my colleagues know, I have made improving our Nation's school libraries a top priority in the Senate and during my time in the other chamber. Our school libraries have wasted away since dedicated Federal funding was eliminated in 1981, and, as a result, too many students lack access to up-to-date, enriching books and other reading material. Given the direct correlation between well-stocked, well-staffed school libraries and literacy and overall student achievement, my amendment, which passed on an overwhelming 69 to 30 vote, authorizes $500 million for up-to-date books and technology and other needed improvements for our Nation's school libraries. Moreover, it rightfully makes school libraries a key component of our effort to increase literacy, as embodied by the President's Reading First initiative included in the bill.

I have also worked to bolster current law's parental involvement provisions based on the simple fact that parental

involvement is a major factor in determining a child's academic success. Parental involvement contributes to better grades and test scores, higher homework completion rates, better attendance, and greater discipline. The bill already contained provisions I had pressed for, including ensuring title I families can access information on their children's progress in terms they can understand; involving parents in school support teams that help turn around failing schools; requiring technical assistance for title I schools and districts that are having problems implementing parental involvement programs; having States collect and disseminate information about effective parental involvement practices to ensure schools have information on how to encourage and expand parental involvement; ensuring parents are involved in violence and drug prevention programs so parents can reinforce the safe and drug-free message at home; requiring States and districts to annually review parental involvement and professional development activities of districts and schools to ensure the activities are effective; and requiring each local educational agency to make available to parents an annual report card which explains how a school is performing.

In addition, this week, several amendments I offered to further strengthen parental involvement were adopted. Key provisions were added to ensure that teachers will receive training on how to work with and involve parents in their child's education and to allow the use of technology to promote parental involvement. Most importantly, a grant fund of $100 million will be established to help districts implement effective parental involvement policies and practices. All of these changes go a long way to ensuring a coordinated focus on bringing schools and parents together in the effort to increase student achievement, something that is particularly needed in light of the bill's annual testing requirement and other accountability mechanisms.

Also, I am pleased that this bill contains important provisions from my Child Opportunity Zone Family Center legislation to foster the coordination and integration of key services to improve student learning.

In addition, I am pleased that the Senate handily rejected vouchers, which would have been the wrong approach to helping our public schools.

In the midst of all of these improvements, however, there are some troubling aspects to this legislation—the lack of guaranteed resources, the testing regime, and the Performance Agreement block grant.

While every Senator recognizes that historically, constitutionally and culturally, educational policy is the province of State and local governments, the Federal Government does play a role. And, we have played this role quite robustly since 1965. The role may be described as encouraging innovation and overcoming inertia at the local level so that every student in America, particularly students from disadvantaged backgrounds, has the opportunity to seize all the opportunities of this great country.

We have an obligation to continue to work with the States and localities, in a sense as their junior partner, but as an important partner, to ensure that every child in this country will have the ability to achieve and obtain a quality public education.

President Bush and our Republican colleagues claim that this bill will leave no child behind, but simply adding testing and flexibility to our elementary and secondary schools without providing adequate resources will not do the job.

I have had many opportunities to talk with the Secretary of Education and other leaders in this administration with respect to their education goals. They talk a good game. They talk about accountability; they talk about standards. But then when you ask them: Where are the resources? They say: Well, we really don't need resources.

That is just not the case. Every American understands that education is worthwhile and that we must invest in education, not just with words but with dollars, to make a high quality education a reality in the life of every child.

Access to increased resources and funding plays a crucial role in improving student achievement and turning around failing schools. For example, recent changes in the Texas public school financing system that preceded President Bush's terms as Governor of Texas have led to substantially equalized access to revenue for low and high income school districts. Accordingly, reports indicate that test scores in Texas have risen markedly in those poorest districts that received additional money under the new financing plan. This has been the case especially in Houston, the home of Secretary Paige.

Now, for the first time, these local school systems are getting the needed funding to repair and modernize their schools, reduce class size, improve professional development, and increase parental involvement—conduct the kinds of programs that really help children succeed. A school district cannot pay for these programs with accountability; real resources are necessary. In addition to the lack of a real commitment of resources beyond Senator HARKIN's IDEA amendment, I am also particularly disappointed that both Senator HARKIN's school construction amendment and Senator MURRAY's class size reduction amendment failed.

Another troubling aspect of this bill is structure of the mandate that States test each student from grades 3 to 8 in order to receive Federal education funding. We all recognize that testing is an essential part of education, but this mandate puts a lot of practical pressure on the States to harmonize their standards with their evaluations. Some States have found out it is not practical to give a test to every child every year because the tests have to be very individualized to capture all the nuances of those standards.

My sense is, and I have talked to educational experts in the States, the sheer requirement to test every child every year for grades 3 through 8 will inexorably lead the States to adopt standardized testing which may or may not capture the standards in that particular State. So this testing regime could unwittingly move away from one of the central elements we all agree on, carefully thought out standards and evaluations that measure those standards. And that is why I supported Senator HOLLINGS amendment to give States flexibility to waive the mandate of annual testing if circumstances warrant. I am disappointed the amendment failed.

I hope we all recognize that testing alone is not sufficient to improve our schools. Identifying children who are falling behind and schools that are failing is just the first step. But, the hardest step is fixing the problem.

As we proceed to Conference, we need to ask ourselves: What are we really doing to our kids? I believe we are imposing very strict testing regimes upon our children. Yet if we don't provide adequate resources to support improvement, such as smaller class sizes and quality teachers, we will just be setting them up for failure. We will be turning our backs on the children of this country, and I am sure that is no one's intention. That is why I will continue to fight for adequate resources to make sure that every child truly has the opportunity to achieve.

Another aspect of this bill that is of great concern to me is the Performance Agreements demonstration program.

Otherwise known as Straight A's, this block grant has the potential to undermine the continued viability of important Federal standards, such as targeting funds to schools and children with the greatest needs, improving teacher quality, strengthening parental involvement, and providing children with safe and drug free schools.

We have a longstanding commitment to the children of this country to address the needs that the states and localities cannot. By placing Federal dollars into state and local block grants, without targeting the Federal dollars on programs identified to be of great national concern or ensuring compliance with Federal requirements and basic commonsense guidelines, we may be abandoning the neediest children of this country, denigrating parents' rights, and abrogating our commitment to ensure that every child has the opportunity to obtain a quality education.

In fact, the States' track record in ensuring that low-income students get their fair share of education funds is less than commendable. A March 2001

Education Trust study of education finance equity found that in 42 of 49 states there are substantial funding gaps between high and low-poverty school districts. The average gap for the Nation was $1,139 per year per student. That translates into a total of $455,600 for a typical elementary school of 400 students.

The Performance Agreement pilot is also not a benign, limited demonstration project by any stretch of the imagination. Indeed, if the Secretary selects the 7 most populous States and the 25 largest school districts, the number of students subject to Straight A's would be as high as 51 percent of the Nation's student population.

For example, if the Secretary selects California, Texas, New York, Florida, Illinois, Pennsylvania, and Ohio to participate in Straight A's, then, based on 1998 figures, approximately 23 million children would be subject to Straight A's. If the Secretary then chooses the 25 largest school districts in states other than those 7 states, then over 26 million children between the ages of 5 and 17 would be subject to Straight A's.

Earlier this week I discussed this issue and my amendment, No. 537, which sought to limit this unproven, Straight A's experiment to States and districts that serve a combined student population of 10 percent of the total national student population.

I believe we must have ample opportunity to review and analyze data regarding this program's effect and its impact on student achievement before we consider subjecting more than half of our Nation's children to this new and unproven initiative, and I will continue to pursue this issue of the scope and consequences of this ''demonstration project'' as we move forward into Conference.

Another problem with this program is its impact on key existing and new parental involvement protections.

During negotiations on the Performance Agreements, protections were added to ensure that some of the parental involvement requirements of title I would have to be followed. Unfortunately, those protections don't go far enough. Left unchanged, the bill would void large parts of the title I parent involvement requirements and other key parental involvement provisions that I, along with the National PTA, Chairman KENNEDY, and others worked to include in this bill.

The last thing we should do is adopt an education bill that reduces parent involvement and family rights. We should not put families in a position where they find themselves with fewer rights by virtue of the fact that the State or district in which they live has chosen to participate in this program.

Every other initiative to provide flexibility to States and districts, including Ed-Flex, has put parent involvement provisions off limits, and this bill should too, and I will continue efforts to address this issue to ensure that we protect, rather than weaken, parental involvement as S. 1 moves to Conference. Our Nation's parents deserve nothing less.

Today, we live in a challenging, international economic order, and students from Rhode Island are not just competing with students from Mississippi and California; they are all competing against the very best and brightest around the globe. That requires investment. It requires raising our standards and giving every child a chance to reach those standards to ensure that we have the best-educated workforce that is competitive in a global economy.

If the education of our young people is truly the No. 1 domestic priority in the United States, as the President claims, then we must put our money where our mouth is. Unfortunately, we have not seen the administration come forward and pledge the kind of resources necessary to achieve any real reform. Instead, we are in danger of having a risky testing scheme and no accountability without the resources to make it all work.

While I support this bill and the significant reforms we have passed, I will continue to work vigorously to ensure that we provide every child with the opportunity to achieve a world-class education.

Mr. NELSON of Nebraska. Mr. President, I would like to express my support for the Elementary and Secondary Education Act. Although my support is not without reservation, I believe that the bill before us today contains much that will ultimately benefit America's schools and the children who attend them. The legislation's intent—increasing student achievement, narrowing the achievement gap among minority and disadvantaged students, strengthening accountability, and increasing local flexibility—are important goals. Commitments in this bill to improve school safety, to improve bilingual education, and to fully fund title I and IDEA were critical factors in my decision to cast an affirmative vote. Were it not for the inclusion of such key components, I would be less inclined to support this bill today.

The issue of education itself is noncontroversial; the way in which we educate our children, however, is. Because we are trying to define the way in which we can improve education and the way that can best be accomplished, this bill deserves serious debate.

Personally, I have always believed that the Federal Government has a role as a junior partner in crafting education policy. The U.S. government in that role, though, should not usurp the State and local governments' power to make education decisions that are more appropriately handled at the State and local level. The line between the Federal Government's role in education and the State's role is a delicate one, and it should be respected.

One area where I believe this bill treads dangerously close to crossing that line is with respect to the issue of unfunded mandates. Specifically, as a former governor, I am concerned by the inclusion of language in this bill that requires States to conduct assessments and meet Federal standards of progress under threat of financial penalty, yet refuses to provide the resources local communities need to meet the often expensive requirements. This bill mandates 316 new tests nationwide, but it does not provide the funding to the States to implement them. Such mandates are irresponsible and burdensome for State and local governments, and will force them to short change other priorities or raise local taxes. In my State of Nebraska, rigorous standards and assessments are in place; the additional tests mandated by this legislation are not critical to improving our schools.

This issue aside, I am encouraged by the programs and the commitment to education quality improvement included in this legislation. The adoption and inclusion of the Mentoring for Success Act in ESEA is a victory for children throughout the country who need the benefit of a stable and caring role model. Programs like this one, which seek to narrow the gap between the have's and the have-nots, are vital. If no child is truly going to be left behind by our education system, it is imperative that we fund initiatives like this mentoring program, as well as other programs like the President's literary initiative, Reading First. This bill contains these initiatives, and they are one of the reasons why I will support it.

Overall, this legislation makes great strides toward improving our educational system. It will help ensure that all children, especially the neediest, will have access to the quality education they deserve. Measures like loan forgiveness for Head Start teachers and efforts to improve teacher quality, will assist in making certain that all children have access not to just any education, but access to a quality education. As I previously indicated, this bill is headed in the right direction, but it is not without flaws. I am hopeful that in the conference report critical funding issues will be addressed. While the initiatives the Senate has approved are well intentioned, they will not be worth the paper they are printed on if we cannot fully fund them. If education is truly a priority for this Administration and for this Congress, the reality of funding levels in this bill must be carefully considered. It is with confidence that I will support this bill, however, in anticipation that the conferees will work together diligently to author a conference report that is sensible, balanced, and fiscally responsible. Our children deserve nothing less; it is Congress' duty to make good on our promises to leave no child behind.

IMPROVING MATH, SCIENCE, AND ENGINEERING EDUCATION

Mr. WARNER. Mr. President, in our efforts to ensure that the United

States remains an economic and military superpower in the 21st century, we must strive to improve the quality of math and science education in this country.

Unfortunately, our schools today need more support in preparing students—in sufficient numbers—to meet the needs of our country. The statistics are alarming, as reported by the National Commission on Mathematics and Science Teaching for the 21st Century, The Glenn Commission, and by the National Assessment of Education Progress, NAEP.

Less than one-third of all U.S. students in grades 4, 8, and 12 perform at or above the ''proficient'' achievement level in mathematics and science on national tests.

More than one-third of such students score below the basic level in these subjects.

And, among 20 nations assessed in advanced mathematics and physics, none scored significantly lower than U.S. students in advanced math, and only one scored lower in physics. Our students can and must do better.

In an effort to improve math and science education, I have joined with Senators ROBERTS, FRIST, COLLINS, and others in supporting much needed legislation to help improve math and science education in elementary and secondary schools. This legislation is now part of S. 1, the Better Education for Students and Teachers Act, the BEST Act.

Not only will the math and science provisions in the BEST Act help improve math and science curriculum in our elementary and secondary schools, they will help our schools recruit even better math and science educators, and make available additional professional development to these educators.

While I wholeheartedly support these provisions, I believe we must go one step further. Not only should we improve math and science education at the K–12 level, we must do something to encourage more individuals to enter vocational schools and colleges and universities in pursuit of programs of study in math, science, and engineering.

It is estimated that the technology driven economy of the 21st century will add approximately 2 million science and engineering jobs to the American economy between today and 2008.

For example, in one sector of America today, in Northern Virginia, there are over 20,000 high-tech jobs going unfilled month to month.

The Senate Judiciary Committee has issued a report that clearly demonstrates America's crisis in meeting the demand in our economy for persons trained in the high-tech field. The report quotes Cato Institute economist Daniel Griswold stating that, ''Americans are not earning specialized degrees fast enough to fill the 1.3 million high-tech jobs the Labor Department estimates will be created during the next decade.''

In addition, the Judiciary Committee report refers to a Hudson Institute estimate that states that the unaddressed shortage of skilled workers throughout the U.S. economy could result in a 5 percent drop in the growth of the GDP. That translates into approximately $200 billion in lost output, nearly $1,000 for every American.

In both the 105th Congress and the 106th Congress, we addressed the high-tech labor shortage by passing legislation to increase the ceiling on the number of H–1B visas—a visa for highly trained foreign workers coming to the United States to work in a high-tech position.

America was forced to do this because our educational institutions are simply not producing the number of personnel needed in the high-tech sector.

In an effort to provide incentives for Americans to pursue a high-tech education, the H–1B visa legislation contained very important provisions that impose a $500 fee per H–1B visa petition that will be used to fund scholarships for Americans who choose to pursue education in these important fields. It is estimated that this fee will raise roughly $450 million over 3 years to create 40,000 scholarships for U.S. workers and U.S. students.

Once again, I whole heartedly support the H–1B scholarship fund. Nevertheless, I believe that we in Congress must do more.

For the past several weeks, we have been discussing education reform in the Senate. However, during this debate we have failed to address the question of whether our educational system is meeting our Nation's vital economic and national security needs.

Our national security is becoming more and more dependent on minds trained in math, science, computer science, and engineering to survive. To ensure our country's prominent role in the future, we must look within our borders to meet these needs.

Unfortunately, today, a look inside our borders shows that this country is facing a dire shortage of math, science, and engineering students. According to the National Science Foundation, NSF, the engineering, mathematics, and science fields show declining numbers of degrees in the late 1980s and the 1990s:

From 1985 to 1998 there has been a 20 percent decrease in the number of people receiving bachelor's degrees in engineering, from 77,572 to 60,914.

In the last 10 years, the number of students graduating with bachelor's in physics has dropped by nearly 20 percent, from 4,347 in 1989 to 3,455 in 1998.

From 1986 to 1998 the number of students receiving bachelor's degrees in mathematics has decreased greater than 25 percent, 16,531 to 12,094.

From 1986 to 1998 the number of students receiving Bachelors in Computer Science dropped more than 30 percent, from 42,195 to 27,674.

While the U.S. produces fewer and fewer mathematicians, scientists, and engineers, the rest of the world is making up the difference. America is importing them.

In several large countries—Japan, Russia, China, and Brazil—more than 60 percent of students earn their first university degrees in the science and engineering fields. In contrast, in the U.S., students earn about one-third of their bachelor-level degrees in science and engineering fields, and this includes social sciences.

Engineering represents 46 percent of the earned bachelor's degrees in China, about 30 percent in Sweden and Russia, and about 20 percent in Japan and South Korea. In contrast, engineering students in the United States earn about 5 percent of all bachelor-level degrees earned in this country.

The demand for science and engineering degrees will only increase. According to the National Science Foundation, during the 1998–2008 period, employment in science and engineering occupations is expected to increase at almost four times the rate for all occupations. Though the economy as a whole is anticipated to provide approximately 14 percent more jobs over this decade, employment opportunities for science and engineering jobs are expected to increase by about 51 percent, or about 2 million jobs.

America must now take steps to encourage, at all levels of our educational process, young people to undertake the training necessary to meet our Nation's demands.

We in the Congress must help in every way to redirect these students from other pursuits into curricula which will train them. This is an absolute necessity if America is to remain secure economically in this one world market and militarily with our national security commitments.

Accordingly, I offered an amendment to this education bill to encourage individuals to pursue programs of study in math, science, and engineering. This amendment is cosponsored by Senators GORDON SMITH, ALLARD, and ALLEN.

The Pell Grant program is one of the most successful and respected educational initiatives taken by the Congress. The concept behind the Pell Grant properly recognizes the needs of young people coming from economic backgrounds which make it difficult for them to acquire higher education.

I have in the past, and always will be in the future, a strong supporter of the Pell Grant program.

Nevertheless, we in the Congress have an obligation when expending taxpayer money, to do so in a manner that meets our Nation's needs. Our Nation desperately needs more trained students in math, science, and engineering. That is an indisputable objective.

The Pell Grant program, in my judgment, offers Congress the opportunity to provide incentives for student recipients to pursue curricula in math, science, and engineering.

My amendment provides a 50 percent greater award to Pell Grant recipients

who pursue a program of study in math, science, and engineering.

The amendment is as simple as that.

My Pell Grant amendment is one idea, but I am certain it is not the only idea. As a member of the Senate's Education Committee, I hope that my chairman, Chairman KENNEDY, will schedule hearings to look into our system of higher education and whether this country is on track to produce graduates who meet the current and projected needs of this country.

At this time, I withdraw my amendment in order to give the Education Committee a sufficient opportunity to address this issue.

At some time in this Congress, I fully intend to reintroduce an amendment along these lines after the committee has reviewed the issues, after I get the views of the administration, and after the wide range of people who on a daily basis review the Pell Grant program have an opportunity to share their views as well.

AMENDMENT NO. 443

Mr. LIEBERMAN. Mr. President, I rise today to clarify why I voted against the Voinvich amendment No. 443 to the ESEA reauthorization bill dealing with loan forgiveness for Head Start teachers. It amends the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers. I thoroughly agree with the ideas expressed in this amendment and have supported incentives for teachers in the past. However, I could not support the amendment because it was not germane to the ESEA reauthorization. I would have supported such an amendment in the context of the Higher Education Act. The amendment provided a tax credit for those individuals who agree to be employed as a Head Start teacher for 5 consecutive years and have demonstrated knowledge and teaching skills in reading, writing, and early childhood development. I strongly believe that it is essential that we have qualified individuals employed in our Head Start programs and working with our youngest children. However, I voted against the amendment, because it was not germane to the ESEA legislation. I did so because together with other leaders on the bipartisan negotiated education compromise bill, I have agreed to vote against non germane amendments so that we will have a better chance to complete and pass this all-important ESEA reauthorization. The amendment passed 76–24 and I am happy with the results.

EDUCATION PROGRAMS OF NATIONAL SIGNIFICANCE ACT

Mr. COCHRAN. Mr. President, my amendment, the Education Programs of National Significance Act, would reauthorize several elementary and secondary education programs that have been effective in improving the education opportunities of students throughout the country.

One example is the National Writing Project which as first authorized 10 years ago and for the current fiscal year is funded at $10 million.

The National Writing Project has 169 sites in 49 States, the District of Columbia, and Puerto Rico. It provides training for 1 out of every 34 teachers across the country. In addition, the National Writing Project raises $6 in local funding for every $1 in Federal funding it receives, and has become a model program for improving teaching in other academic fields such as math, science, and reading.

Last fall, the Academy for Educational Development completed a study which shows the improvement of student writing achievement as a result of their teachers' involvement in the National Writing Project. The study evaluated the writing skills of 583 third- and fourth-grade students. The executive summary of the study states:

> Overall, these findings show that students in classrooms taught by NWP teachers made significant progress over the course of the school year.

Last month, I held a Senate hearing in Bay St. Louis, MS which examined the effectiveness of the National Writing Project in my State. I heard from teachers and school administrators who gave compelling testimony about the positive results in their classrooms and the improvement of their teaching skills attributed to participation in National Writing Project training.

The amendment authorizes the continuation, subject to annual appropriations, of the National Writing Project.

The amendment also reauthorizes research based educational material delivered by public broadcasting television stations under the Ready To Learn Television Act of 1992. The objective was to utilize the time children spend watching television to prepare them for the first year of school. Today we know this program has resulted in improved learning skills for the children.

Recent research from the University of Alabama and the University of Kansas tells us that Ready to Learn is having a positive impact on children and their parents. The University of Alabama study found that Ready to Learn families read books together more often and for longer periods than nonparticipants. And, this is a fact that surprises many, Ready to Learn children watch 40 percent less television and are more likely to choose educational programs when they do watch.

Using the best research tested information available, Ready To Learn supports the development of educational, commercial-free television shows for young children. Between the Lions, is the first television series to offer educationally valid reading instruction which has been endorsed by the professional organizations that represent librarians, teachers and school principals. Its partners also include: The Center for the Book at the Library of Congress; the National Center for Family Literacy; the National Coalition for Literacy and the Home Instruction Program for Preschool Youngsters. This broad-based support is unprecedented for a children's television show. It is well deserved affirmation of the Ready to Learn mission.

A recent study from the University of Kansas showed that children who watched Between the Lions a few hours per week, increased their knowledge of letter-sound correspondence by 64 percent compared to a 25 percent increase by those who did not watch it. The parents and other care givers of more than six million children have participated in the local workshops and other services provided by 133 public broadcasting stations.

I am encouraged by the success of Ready to Learn and look forward to a new generation of children whose families will have access to the information needed to develop a learning environment before they are enrolled in school.

These are two of the Educational Programs of National Significance that I have been personally involved in starting. The others that are included in this amendment are also proven examples of federally funded education programs that will help us have a better educated student population throughout the Nation.

I urge Senators to support the amendment.

Mr. SHELBY. Mr. President, throughout this debate, we have wrestled with how we best improve education for all of our children; whether it is more money, more flexibility, more accountability, higher standards, less bureaucracy, more choice. All of these considerations and goals are worthy and certainly play an important role in ensuring that our children receive the best education possible.

But, there is one ingredient—one factor—that without fail, is the most essential to a child's education and that is a parent. I submit that there is no school building, no computer, no TV, no textbook that can replace the role of a parent when it comes to educating a child. And accordingly, no government official or school official shares the same interest as a parent in protecting and raising their child. I say this because the amendment Senator DODD and I are offering today is about ensuring the rights and responsibilities of parents in raising and educating their children.

As parents, we entrust schools with our children in the hope and belief that they will receive a strong education that will prepare them for the future—that they will be taught and learn the basic foundations for success—reading and writing, math and science. Parents expect this.

What they don't expect and what many of them aren't even aware of is that their children will be used as captive focus groups for marketers during the school day. That is not part of the bargain and, I submit, it shouldn't be.

Last year a GAO study found that marketers and advertisers are increasingly targeting our children in the school setting. This is not some freak occurrence. It is a calculated marketing strategy that is intended to get around parents and reach kids directly in a way they could not normally. In a recent column raising concerns about this phenomenon, George Will notes how marketers now study ''marketing practices that drive loyalty in the preschool market'' and ''the desires of toddler-age consumers.'' In addition, marketers advise that ''School is. . .the ideal time to influence attitudes.''

There is no question that there is a lot of money to be made in marketing to children. According to a report by the Motherhood Project at the Institute for American Values, in 1998 alone, children ages 4 to 12 spent nearly $27 billion of their own money and influenced nearly $500 billion in purchases by their parents. As parents, many of us have probably felt like it was a lot more than $500 billion at times.

I am all for free enterprise. But, there are boundaries. And, marketers are crossing those boundaries when they seek to go into public schools and collect marketing information on children without parental consent. A recent editorial in the Christian Science Monitor echoes this sentiment.

> Schools are for learning, not market research . . . Businesses do have a role in education. They can lend financial and other kinds of support, and be recognized for such. But educators and businesses also need to recognize boundaries—and stay within them.

Congress has acted in the past to provide some boundaries to schools and protect parental rights and children's privacy. The Family Education Rights Protection Act, the Protection of Pupil's Rights Act and the Children's Online Privacy Protection Act all provide parents with some ability to protect how information is collected and shared on their children. None of these laws, however, protect parents' rights when third party marketers seek to collect similar information from their children in the classroom.

Our amendment seeks to address this gap in the law and reenforce these boundaries by ensuring that when third parties want to come in to the classroom and conduct market research and collect information on our children for strictly commercial purposes, they have to ask the parent.

We are not breaking new ground here other than filling in gaps in existing law. In addition, parental consent is already required for many other activities that occur in the schools, including extracurricular activities, field trips, and internet access. Indeed, parental consent is required before students may participate in the Everybody Wins Program that many Members and staff of this body participate in.

I know there have been concerns and questions raised about our amendment and active lobbying against our efforts.

However, in working with the White House, I believe we have addressed most of the these concerns as reflected in our modified amendment. We have sought to minimize concerns over ''burden'' by requiring parental consent for only those commercial/marketing activities that seek to collect information on children.

In addition, we have attempted to provide local flexibility —while ensuring parental involvement—by allowing local school boards to provide additional exceptions to the consent requirements so long as the information they seek to collect is not personally identifiable and the school notifies the parents of their policy on these data collection activities.

Despite our good-faith efforts to address legitimate concerns, I understand that some financial interests may oppose parental consent no matter what. They are willing to argue that requiring parental consent imposes a burden on local schools.

I fundamentally disagree and submit that if we have come to the point where we consider parents a burden and parental consent a mandate—then we have a bigger problem in this country. Parents a burden? I say we need more such local burdens in our schools, not less. You simply can't get more ''local'' than a parent.

And as a corollary to this, I would suggest that these interests have it backwards. It is rather the local schools that are interfering in the rights of parents. Schools exceed their authority when they allow third parties to come in to the classroom and collect information on children for strictly commercial purposes.

We have tried to focus this amendment on those non-educational activities that parents traditionally maintain authority over. Parents have a tough enough time trying to raise and instill certain values in their children. Schools should not be a parent-free zone where marketers get unfettered access to children that they would not otherwise be able to achieve anywhere else.

There is nothing intended in this amendment to disadvantage public-private partnerships in our schools. And, in fact, most public-private partnerships have nothing to do with collecting personal information on children. Indeed, I continue to believe that many of these relationships can be very positive for schools and students. We want to encourage, not discourage many of these relationships.

But, I submit that these public-private partnerships should be able to withstand the scrutiny of parents when they seek to collect information on their children. If it is in their child's interest—you can be sure a parent will give their permission. I don't know of any reputable company whose business model would be based on intentionally skirting parental rights and targeting children directly in the schools. And, I doubt, that any business that relied on such a tactic would be around very long.

I do, however, believe that the amount of interest and extensive lobbying that has been shown on our little amendment is a strong indication of how much money is being made on targeting kids in the schools and how important it is to some marketers to get around parents and get access to our children directly.

Our modified amendment was crafted in consultation with the Administration, and is supported by the National Parent Teacher Association, Commercial Alert, the Eagle Forum, the American Conservative Union, Focus on the Family, and the Motherhood Project at the Institute for American Values, among other groups.

I am pleased with the acceptance of this amendment by the Senate and thank the managers for their work on this bill and on our amendment.

I look forward to working with my colleagues as the bill is considered in conference.

Mr. KENNEDY. I ask unanimous consent the Senate now proceed to the consideration of House companion H.R. 1; that all after the enacting clause be stricken, and the text of S. 1, as amended, be substituted in lieu thereof, and the Senate proceed to vote on final passage of the bill; that the Senate insist on its amendment, request a conference with the House—

Mr. LOTT. Reserving the right to object, I believe there has been a modification.

Mr. KENNEDY. If I could restate it: I ask consent that the Senate proceed to consideration of the House companion, H.R. 1; that all after the enacting clause be stricken, and the Text of S. 1, as amended, be substituted in lieu thereof, the bill be read a third time, and that the Senate proceed to vote on final passage of the bill.

I further ask consent S. 1 be returned to the calendar.

Mr. REID. 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. GREGG. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The foregoing request is agreed to.

Mr. GREGG. We are about to go to final passage. I wanted to thank staff on both sides. This bill has been on the floor for 7 weeks. Their tireless efforts, literally hours, days, nights, and weekends, on behalf of moving this bill along have been extraordinary.

On my staff, of course, Denzel McGuire led the effort and did an exceptional job. Jamie Burnett, Rebecca Liston and other folks, so many it is hard to mention, as well as John Mashburn, Andrea Becker, Holly Kuzmich, and Raissa Geary on our side have all worked extraordinary hours to make this work.

We also thank the professional staff of Senator KENNEDY, led by Danica and other members of their staff.

Mr. KENNEDY. I express my thanks now, and I will do so at the conclusion and hope they understand we appreciate this.

I ask for the yeas and nays.

Mr. GREGG. If the Senator will suspend, on behalf of Senator WARNER, I ask unanimous consent to withdraw his previously submitted amendment No. 792.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, this will be the last vote of the week. There will be no session tomorrow. We begin again on Monday. There will be no votes on Monday. For the information of all Senators, the first vote will occur sometime on Tuesday, but we will be in session on Monday.

I yield the floor.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. Under the previous order, the bill will be read the third time.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE), is absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—91

Akaka	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Miller
Baucus	Edwards	Murkowski
Bayh	Ensign	Murray
Biden	Enzi	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Reed
Boxer	Frist	Reid
Breaux	Graham	Roberts
Brownback	Gramm	Rockefeller
Bunning	Grassley	Santorum
Burns	Gregg	Sarbanes
Byrd	Hagel	Schumer
Campbell	Harkin	Sessions
Cantwell	Hatch	Shelby
Carnahan	Hutchinson	Smith (NH)
Carper	Hutchison	Smith (OR)
Chafee	Jeffords	Snowe
Cleland	Johnson	Specter
Clinton	Kennedy	Stabenow
Cochran	Kerry	Stevens
Collins	Kohl	Thomas
Conrad	Landrieu	Thompson
Corzine	Leahy	Thurmond
Craig	Levin	Torricelli
Crapo	Lieberman	Warner
Daschle	Lincoln	Wellstone
Dayton	Lott	Wyden
DeWine	Lugar	
Dodd	McCain	

NAYS—8

Bennett	Hollings	Nickles
Feingold	Inhofe	Voinovich
Helms	Kyl	

NOT VOTING—1

Inouye

The bill (H.R. 1), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. KENNEDY. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that it be in order for the clerk to make technical and conforming changes to any previously agreed to amendments with respect to the ESEA bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 441, AS FURTHER MODIFIED

Mr. REID. Madam President, I ask unanimous consent that the Lugar amendment No. 441 be further modified with the technical change that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

On page 265, line 25 strike ''identified'' and all that follows through ''Secretary'' on line 1 of page 266, and insert ''nationally available''.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before we turn to morning business, there is one thing I would like to say. I have been on the floor during the entire 8 weeks of this debate on the education bill. A great deal of that time—about 6 of the weeks—I spent with Senator JEFFORDS as a manager of this bill. I just want to make sure everyone understands his contribution to this piece of legislation.

He was chairman of this committee. His substitute is what we accepted. In the kind of glow of having finished this legislation—we are all happy to finish a major piece of legislation; the President should be happy—I just want to make sure everyone understands the great contribution to this piece of legislation made by the junior Senator from the State of Vermont.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I join my friend and colleague, Senator REID, in paying tribute to JIM JEFFORDS at the time of the completion of this legislation. As the Senator rightfully pointed out, Senator JEFFORDS was really the architect of the development of the core aspects of this legislation and presided over a very extensive markup. He was able to bring the committee to a unanimous vote of support for that legislation even though there were a good many differences that were expressed. It does not surprise any of us who are on that committee because he has been a leader in the area of education over his entire career in the Senate as well as in the House of Representatives.

There are many features in this legislation that have been included of which he was really the architect many years ago. So I think all of us who are mindful of the progress that has been made join in paying tribute to Senator JEFFORDS for his remarkable leadership. I think this body will continue to benefit from his continued involvement. We certainly depend upon it, and I know America's children depend upon it as well.

I thank Senator JEFFORDS for all of his good work.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

THE PRESIDENT'S TRIP TO EUROPE

Mr. COCHRAN. Madam President, I am pleased to address the Senate to applaud the leadership being shown by President Bush during his visit with leaders in Europe. I like the straightforward and forceful way he is expressing his views on international security issues, especially on the subject of missile defenses.

In March, the President dispatched senior administration officials around the world to discuss with leaders of other nations the plans he was considering to deploy defenses against ballistic missiles. The Secretary of State, the Secretary of Defense, and high-level administration teams have worked hard to ensure that our friends and allies understand why the United States intends to deploy these new defensive systems.

This week European leaders are hearing directly from the President his personal views on this issue. At his first stop in Madrid, President Bush said that the task of explaining missile defense ''starts with explaining to Russia and our European friends and allies that Russia is not the enemy of the United States, that the attitude of mutually assured destruction is a relic of the Cold War, and that we must address the new threats of the 21st century if we're to have a peaceful continent and a peaceful world.''

The Prime Minister of Spain, Mr. Aznar, responded to President Bush's remarks by saying:

[I]t is very important for President Bush to have decided to share that initiative with

its allies, to discuss it with them, to establish a framework of cooperation with his allies with regard to this initiative and, as he announced, to also establish a framework for discussions, cooperation, and a new relationship with Russia.

The Prime Minister also said:

What I am surprised by is the fact that there are people who, from the start, disqualified his initiative and, in that way, they are also disqualifying the deterrence that has existed so far and probably they would also disqualify any other kind of initiative. But what we're dealing with here is an attempt to provide greater security for everyone. And from that point of view, that initiative to share and discuss and dialog and reach common ground with the President of the United States is something that I greatly appreciate.

Today the news reports indicate that many other European leaders agree with the sentiments expressed by the Prime Minister of Spain. The most conspicuous exceptions have been France and Germany.

I commend President Bush for his effort to modernize our defenses against terrorism and ballistic missiles. Internationally, we remain vulnerable to these threats. We can no longer intentionally choose to accept that on behalf of our citizens. Nor can peace-loving people anywhere in the world tolerate the continued intentional vulnerability that this policy ensures.

President Bush realizes this and is doing what is necessary to remedy the situation. He is making it clear that he will unilaterally reduce our stockpile of nuclear weapons to the lowest level, compatible with the need to keep the peace. And he is consulting with our allies and others in an effort to explore new agreements that will further protect our common security interests.

He acknowledges that everyone, not even our closest allies, will agree with us on everything, but President Bush holds out hope for new understandings. He said at one news conference:

I don't think we are going to have to move unilaterally, but people know I am intent on moving forward.

The President is doing the right thing and setting the right tone in providing this kind of leadership at this particular time. It is a very important step in achieving a higher level of security for all the world, not just for the United States.

I ask unanimous consent that a list of quotations from those supporting U.S. missile defense plans be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUOTES SUPPORTIVE OF U.S. MISSILE DEFENSE PLANS

Australia—Foreign Minister Downer (June 1, 2001): ''We've said to the Americans that we are understanding of their concerns about the proliferation of missile systems . . . if a rogue state were to fire a missile at the United States, would an appropriate response be for the United States to destroy all of the people in that country? And I think, understandably, the Americans are saying that may be a slight over-reaction. And if that is all that their current deterrence arrangements provide for, then I think it's understandable that they should want to look for more sophisticated and more effective, and at the end of the day, more humane ways of dealing with these problems.''

Czech Republic—President Havel (June 13, 2001): ''. . . the new world we are entering cannot be based on mutually assured destruction. An increasingly important role should be played by defense systems. We are a defensive alliance.''

Hungary—Prime Minister Orban (May 29, 2001): ''The logic of the Cold War, mutual deterrence, would not give a reply to the problems of the future. It is important that North America and Europe should work jointly on solutions demanded by the new realities.''

Italy—Prime Minister Berlusconi (June 13, 2001): ''We agree that it is necessary for a new, innovative approach in our policies towards these new threats.''

Defense Minister Martino (June 11, 2001): ''[Missile defense] would not be directed against the Russian Federation today; the aim is to protect us from unpredictable moves by other countries. It is in the interests of peace, of all of us.''

Japan—Prime Minister Koizumi (June 7, 2001): ''This is very significant research because it might render totally meaningless the possession of nuclear weapons and ballistic missiles.''

Poland—President Kwasniewski (June 13, 2001): ''[The U.S. missile defense plan is a] ''visionary, courageous, and logical idea.''

Defense Minister Komorwski (May 27, 2001): ''Poland has looked upon U.S. declarations on the necessity of establishing a missile defense system with understanding from the very start. We . . . see the modification of the project to provide for a 'protective shield' for European allies as a step in the right direction. This can only enhance defense capabilities but also strengthen the unity of NATO. The territory of Poland and the Polish defense system may become a key element of an allied missile defense structure.''

Secretary of the National Security Council Siwiec (May 18, 2001): ''The ABM Treaty . . . stands in the way of building a new security system. The debate on the missile shield is not unlike protests of steam engine users against the inventors of rocket engines . . .''

Romania—Defense Minister Pascu (June 12, 2001): Romania understands the U.S. desire for protection from missile attack and would have ''no objection at all' even if the U.S. proceeded unilaterally. Regarding those in Europe that dismiss the threat of missile attack, Pascu said ''It is a real danger. To some, it is not because they don't want it [missile defense] done.''

Slovakia—Prime Minister Mikulas (June 8, 2001): ''We have always perceived the United States as the protector of democratic principles in the world and we understand the alliance (NATO) as a defense community. So we consider the missile defense project to be a new means of collective defense . . ., a security umbrella for this democratic society and therefore in general we support this project.''

Spain—Defense Minister Trillo (May 23, 2001): ''The [U.S.] missile initiative . . . is neither an aggressive initiative—it is a defensive one—nor a nuclear escalation, but rather, on the contrary, a means of deterrence of the buildup of nuclear weaponry.''

The PRESIDING OFFICER. The Senator from Utah.

VOTE ON ESEA AUTHORIZATION

Mr. BENNETT. Madam President, the vote we just had recorded only eight votes in the ''nay'' column, and one of those eight was mine. I don't usually find myself that isolated. I thought on this occasion that it would be appropriate for me to explain why I voted against this bill.

I am not sure what I would have done had my vote been decisive, because I recognize that we need to pass an elementary and secondary education bill. We need to move forward on an issue that President Bush has correctly identified as our No. 1 domestic priority. Nonetheless, I was troubled enough by the bill that I voted against it and wanted to make my reasons clear in the hope they might influence the conferees.

I have three reasons for voting against this bill. The first one is money. The cost of this bill is twice what it was when the bill hit the floor to begin with. We added money here; we added money there. We had a drunken sailor's attitude toward this situation: Education is wonderful; let's throw money at it.

I am troubled by that kind of view with respect to how we should legislate around here. It struck me as being a bit out of control.

Secondly, as I heard more and more from the people in Utah who will have to live under this bill, they kept saying to me, This feels an awful lot like a Federal straitjacket. This feels an awful lot like Federal control. This feels an awful lot like we are losing the power to run our own schools. I find that troubling as well. As some of my colleagues have said, I didn't run for the federal school board; I ran for the U.S. Senate.

Many of the decisions that were made with respect to this bill were decisions that were made on the assumption that Washington knows better than the local school boards, and that assumption troubles me.

It is because of the third reason, as I looked at the bill as a whole, that I decided to vote against it. I am passionate enough in my commitment to education that I could swallow the idea of more money. Frankly, if we were getting the right results, I could look the other way and say, Well, since we are getting the right results, I can tolerate increased Federal control.

But this bill is not a step forward in education. This bill is overwhelmingly timid. It has almost no significant new initiatives in it. It is simply funding the status quo to the maximum. The more I look at education, the more I think we need to break out of the status quo. We need to try new things. But any time a suggestion was made that we try something new, even on a pilot basis in a very limited sense in just a few places, it was swatted down.

People talk about Government as if inertia at rest is the problem, that nothing ever gets done. It is my experience that it is inertia of motion that is the problem with Government. It is not just the law of physics. A body in motion tends to stay in motion and in the

same direction, whether it is a body moving through space in the physical world or whether it is a Government agency moving through regulations that always does things the same way. It keeps things going. It takes yesterday's answers and tries to force them on today's problems.

As I look at this bill overall, I do not see the boldness, the freshness, the challenge to do something different and try to break out of the old patterns that, frankly, were there when President Bush first submitted his education plan. We, in this body, have added so much baggage to that exciting first motion that it is hard to recognize the President's initiatives in this bill. They are buried under piles of money and piles of directions that are rooted in the status quo and in the past.

So I decided that the bill is going to pass, regardless of what I try to do. But if I can draw a little bit of attention to the fact that the bill is not, in fact, as bold, as innovative, and as hopeful as it started out to be by casting a negative vote, then that would justify casting a negative vote.

I don't expect very many people will listen to what I have to say, and I don't expect very many people will pay attention to the vote I have cast. But I remember when I first came here as a young Senator, someone said to me, Cast your vote with this in mind—how will you feel as you drive home thinking about it after the debate is over?

I decided that as I drove home thinking about this one that I would drive home feeling better having cast the protest vote than I would if I had gone along with the large majority of my colleagues.

I don't mean to suggest that anyone who voted for this bill was not voting out of complete, sincere dedication to the idea that this is something good. I don't mean to question the motives of anybody else. I simply want to explain my own. This bill has grown too expensive. This bill has grown into too much Federal control. And the end result, in terms of timidity and support for the status quo, is simply not worth those first two. That is why I opposed the bill.

I hope the product that comes back to us from conference will be better and that I will then be in a position to support it.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

226TH BIRTHDAY OF THE ARMY

Mr. HAGEL. Madam President, I rise today to wish the United States Army happy birthday. It was 226 years ago today, in 1775, that the Continental Army of the United States was formed. The United States Army has had a monumental impact on our country.

Millions of men and women over the past 226 years have served in the senior branch of our military forces. The Army is interwoven into the culture of America. Those who have had the great privilege of serving our country in the U.S. Army understand that.

Last week, I was in Crawford, Nebraska. I am helping with the renovation of the historic barracks at the old Ft. Robinson in western Nebraska.

Ft. Robinson was home to the U.S. Army's ''Buffalo Soldiers''—the heroic black soldiers who fought as part of the U.S. Army after the Civil War into the early 20th Century.

The 9th Cavalry Buffalo Soldiers called Ft. Robinson home from 1885 to 1898. And the 10th Cavalry Buffalo Soldiers were stationed at Ft. Robinson from 1902 to 1907.

It is also interesting to note that Nebraska was home to the 25th Cavalry Buffalo Soldiers who were stationed at Ft. Niobrara, in the north central part of Nebraska, from 1902 to 1907.

The Buffalo Soldiers made up about twelve percent of the U.S. Army at the turn of the Century and they served our country valiantly and with great distinction.

Eighteen Buffalo Soldiers earned the Medal of Honor, our Nation's highest award, fighting on the Western frontier. Five more earned the Medal of Honor for service during the Spanish American War.

''Duty, honor, country'' is the motto of the U.S. Army. It is America. Every generation of Americans who have served in the U.S. Army—from the Continental Army to the Buffalo Soldiers to today's fighting men and women—have been shaped by this motto.

It has molded lives in ways that are hard to explain, just as the Army has touched our national life and history and made the world more secure, prosperous, and a better place for all mankind.

On this 226th birthday of the U.S. Army, as a proud U.S. Army veteran, I say happy birthday to the Army veterans of our country. We recognize and thank those who served and whose examples inspired those of us who have had the opportunity to serve in the U.S. Army.

It is the Army that has laid the foundation for all of this nation's distinguished branches of service and helped build a greater, stronger America.

Mr. President, on this, the 226th birthday of the Army, I say Happy Birthday and, in the great rich tradition of the U.S. Army, I proudly proclaim my annual Senate floor ''HOOAH!''

The PRESIDING OFFICER. The Senator from Connecticut.

THE 226th ANNIVERSARY OF THE U.S. ARMY

Mr. DODD. I commend my dear friend from Nebraska for his remarks celebrating the 226th anniversary of the Army. I am glad I was present on the floor to hear the annual ''Hooah'' from a wonderful former sergeant who served with great distinction during the Vietnam conflict. He is a wonderful Member of this body and a great friend to the veterans of America.

I served in the Army. I was a weekend warrior. I defended the shores of Connecticut from outside aggression over the years. But, I am deeply proud to have worn the uniform of the Army while rising to the rank of E4. I am even more proud of my friend for his wonderful service and for what he has done in public life after his service. I join him in wishing happy birthday to our friends in the U.S. Army.

Mr. HAGEL. Madam President, if I may respond to my friend from Connecticut, it is common knowledge that E4s run the Army, so I salute him with a big ''Hooah.''

THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. DODD. Madam President, I want to spend some time talking about the reauthorization of the Elementary and Secondary Education Act of 1965, which we passed just a few minutes ago.

First, I commend my friend and colleague from Massachusetts, the chairman of the committee, for his continuing leadership in the area of education. Senator KENNEDY has been a tireless champion of children and families and is now into his fifth decade here in the Senate. He has no equal when it comes to his passion for serving those in need, and demonstrated that passion once again during his management of this bill over the past 6 or 7 weeks.

I also want to join with those who have commended our colleague, Senator JEFFORDS of Vermont. Senator JEFFORDS is the former chairman of this committee. We were elected to Congress together more than a quarter century ago. He has been a wonderful friend and fellow New Englander and in large part is responsible for the outlines of the bill just adopted by a substantial vote. In his quiet way, JIM JEFFORDS made a very profound and strong imprint on this legislation.

Although much attention has been focused on political events over the last few weeks associated with our colleague from Vermont, that should not overshadow his substantive commitment to the quality of education in this country, and this reauthorization of the Elementary and Secondary Education Act is one of the finest examples of his efforts over the years. So I commend him for his work.

I thank my friend from New Hampshire, Senator GREGG, who is a tremendously bright and articulate Member of this body. We have our differences, but there is no more engaging Member, no one with whom I more enjoy debating a subject. He is knowledgeable and deeply committed to these issues. He has very strong views, but is a very fair individual, and he did a very fine job here on the floor. Other members, also have been very involved in this legislation, such as Senator FRIST of Tennessee, who cares deeply about these issues;

JOE LIEBERMAN, EVAN BAYH, and MARY LANDRIEU; and especially other members of the committee on which I served—TOM HARKIN, JACK REED, PATTY MURRAY, BARBARA MIKULSKI, JEFF BINGAMAN, and our new colleagues, Senator CLINTON from New York, and Senator EDWARDS. Also, SUSAN COLLINS, and TIM HUTCHINSON from Arkansas. PAUL WELLSTONE has offered many amendments in committee as well as on the floor, expressing his strong appetite for improving the quality of public education in America. Certainly, TOM DASCHLE, the distinguished majority leader, has been deeply involved in this debate and discussion over the last number of weeks and deserves a great deal of credit, along with HARRY REID, for keeping the battle moving forward and the debate moving forward over these last days of the debate.

I thank TRENT LOTT, former majority leader, now minority leader, for his work as well.

I am sure that I left some people out here, including the Presiding Officer, the distinguished Senator from Michigan, Ms. STABENOW, who has also been deeply involved in education matters for many years—long before she arrived as a new Member of this body, in her work in the other Chamber, and in her home State of Michigan on behalf of children and families. I thank her for her work as well. And, Senator BIDEN, with whom I offered my comparability amendment, along also with Senator REED.

Madam President, this is not a bill I would have written. Nor is it one that I expect our Republican friends would have written, were we allowed to write our own version of a framework for elementary and secondary education. This is a compromise bill. There are parts of it about which I am very excited and others about which I am disappointed. This is not an uncommon reaction when a final vote on major legislation is called for.

But we are not through the process. This is step 1 for us. The other body has adopted its version of the Elementary and Secondary Education Act, and now we will meet in conference, to work out the differences between these two bills.

I believe our collective work over the past couple of months has greatly improved the bill, and that is why I voted for it. Nevertheless, I hope that it will come back from conference a stronger bill.

This bill will target resources to the neediest students in our country. It will make sure that classrooms are run by well-qualified teachers, and it will provide options to parents. Those are wonderful improvements over the status quo. I heard my friend from Utah say this bill was nothing more than the status quo. That is not the case.

There also were many important amendments adopted, in many cases with broad bipartisan support.

Senator HARKIN and Senator HAGEL put together what may be the most important amendment adopted in this bill, mandating full funding of the Individuals with Disabilities Education Act. After 26 years of waiting, communities, parents, teachers, and students finally will receive full funding of special education. This is a major achievement.

I am very proud of the fact Senator COLLINS and I were able to get 79 votes for full funding of title I over the next 10 years. I hope that we can fully fund it more rapidly than that, but I believe, and my colleague from Massachusetts who has a wonderful historical memory of this law over the years may know, this is the first time we ever voted to fully fund title I, I am proud of this action.

Senator KENNEDY's amendment will increase the number of qualified teachers in our classrooms. That is a major achievement.

Senator WELLSTONE's amendment ensures that the tests States develop to comply with this bill will be of high quality.

Senator BLANCHE LINCOLN of Arkansas won strong bipartisan support to increase support for bilingual education.

Our colleague from California, Senator BOXER, won support, I joined with her, to increase resources to provide children with productive afterschool programs.

Senator REED of Rhode Island deserves great credit for providing school libraries with desperately needed resources.

The amendment of our colleague from Illinois, Senator DURBIN, will strengthen math and science partnerships. That improves the bill tremendously as well.

I was also pleased the Senate rejected efforts to include private school vouchers in this bill by a significant vote. Not out of any negative feelings about private education, but because with 50 million children in public schools and 5 million in private schools, resources are hard to come by, and we must do our best to improve the quality of public education.

I am pleased as well the Senate accepted an amendment I offered, along with the support of the chairman of the committee and others, for the professional development of early childhood educators.

Also, the amendment I offered with Senator SHELBY of Alabama to protect student privacy was accepted by voice vote.

For children to be ready for school and to learn to read, their early childhood educators must have the training to help them develop intellectually and socially, and this amendment contributes to that goal.

The amendment I offered with Senator SHELBY of Alabama to protect student privacy also was accepted by voice vote.

This amendment will ensure parents have the right to decide whether their children will be asked personal questions by marketeers for commercial purposes during school time.

This is a growing phenomenon, one that is a growing concern of mine, that classrooms are becoming market testing grounds. It is hard enough to educate a child. I do not think parents expect their children to become the subject of marketing surveys in school. Parents wouldn't tolerate this happening in their homes without their permission and they should not have to tolerate it in their children's schools without permission.

Businesses can be great partners in the educational system. They have a vested interest in a well-educated workforce. But the extent to which and how they are involved is something about which we all ought to be conscious.

But, I do have significant concerns about this bill. I am disappointed that it does not include funds dedicated to reducing class size and repairing crumbling schools. We know that these things improve student achievement and we will continue to fight for them.

I also am disappointed we adopted the Helms amendment, which purported to be about ensuring the Boy Scouts access to public school facilities, a right already guaranteed them by the United States Supreme Court.

The Boy Scouts have a long tradition of doing wonderful things for America's young men, but unfortunately the Helms amendment, in my view, effectively puts the Senate on record as approving the exclusionary policies of the Boy Scouts and other organizations, and that is a sad commentary as we enter the 21st century.

Most of all, I am concerned that while this bill demands accountability for low-income schools and school districts, and establishes the goal of funding title I, we still have not received a commitment from the President or our Republican colleagues to provide the resources for Title I, special education, and other parts of this bill.

I would have hoped that by now the President would have said there will be full funding of these programs during his administration. He has, for whatever reasons, decided not to make that commitment. I am still hopeful he will. That will go a long way in alleviating my concerns about whether or not these reforms are going to give these children an opportunity to compete on a level playing field with other children who have the tools that will allow them to succeed. It does not guarantee success, but it is an opportunity to succeed.

We have an obligation at every level, Federal, State, and local, to see to it that all kids have a chance to succeed. It is important, if this bill is going to reach its potential, to have the resources we will need to give kids that chance.

That has not yet happened, and I am very uneasy as we go into the conference about whether or not those commitments will be forthcoming. If

we end up with nothing but tests and standards and leave needy children in this country in rural and urban areas without the resources to benefit from real reforms, then we will end up with a self-fulfilling prophecy of children who fail tests, which will be taken as a further indictment of public education.

I know I am not alone in this concern. The chairman of the committee has expressed this feeling over and over, and I am hopeful that as this debate proceeds over the coming weeks, the commitments we have asked for with regard to resources will be forthcoming.

And, finally, I am disappointed the Senate did not adopt an amendment which I offered along with Senator BIDEN and Senator REID, with strong support of almost half of the Senate, calling for comparable educational opportunity services for all children within a State. We have done that for 36 years within school districts. Some districts have more students than 27 States in this country. For 36 years, they have been able to provide a comparable educational opportunity. I think States ought to meet that same criteria. This bill demands greater accountability from students, parents, teachers, school boards, and the Federal Government—the only entity we exclude from that is the States. I am disappointed that amendment was not adopted.

But, again, to conclude these remarks, my hat is off to the chairman of the committee, to JIM JEFFORDS, as I mentioned earlier, for his work, to the members of our committee, going right on down the line to the most junior member, Senator CLINTON of New York. Also, our Republican colleagues, including JUDD GREGG, BILL FRIST, SUSAN COLLINS, TIM HUTCHINSON and the others, who worked hard to make this a better bill. While we disagreed and I had strong arguments with them on many points, my respect for them is in no way diminished. In fact, if anything, it is enhanced by their commitment.

We are all trying to do our best for the children of this country and I hope that in the weeks ahead, we will be able to improve this bill further. Again, I thank the chairman of the committee and his staff and all of our staffs.

I will include all the names of people here. They worked so hard. From Senator KENNEDY's staff, Michael Myers, Danica Petroshius, Jane Oates, Roberto Rodriguez, Michael Dannenberg, Dana Fiordaliso, and Ben Cope. From my staff, Lloyd Horwich, Shawn Maher, Jeanne Ireland, Grace Reef, Sheryl Cohen, and John Carwell.

Bev Schroeder and Katie Corrigan of Senator HARKIN's staff, Bethany Little of Senator MURRAY's staff, Elyse Wasch and Michael Yudin with Senator REED, Jill Morningstar and Jay Barth with Senator WELLSTONE, and Ann O'Leary with Senator CLINTON.

Also, Carmel Martin and Dan Alpert with Senator BINGAMAN, Kimberly Ross with Senator MIKULSKI, and Crystal Bennett, with Senator EDWARDS.

Mark Powden, Sherry Kaiman, and Andy Hartman with Senator JEFFORDS. Michele Stockwell with Senator LIEBERMAN, Elizabeth Fay with Senator BAYH, and Kathleen Strottman with Senator LANDRIEU.

I also want thank the staff on the other side, especially Denzel McGuire and Stephanie Monroe, with Senator GREGG, Holly Kuzmich with Senator HUTCHINSON, Maureen Marshall with Senator COLLINS, and Andrea Becker with Senator FRIST.

And, I want to thank Joan Huffer with Senator DASCHLE and David Crane and John Mashburn with Senator LOTT, and Sandy Kress and Townsend McNitt, of the White House staff, for all of their help.

I remember Senator KENNEDY and I were up one Saturday morning weeks. We were in the building, walking around, and happened to see a door open. We walked in and there were the staffs, trying to work out differences and work out language in the bill. We offer the amendments, we get the attention, we appear before the cameras, but it is the staffs of our offices who do tremendous work and develop great understanding of these issues.

I thank Senator KENNEDY's staff, my own staff, the staff of the others, both majority and minority for the tremendous effort and time they put in to make this a better bill.

With that, Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to, first, express appreciation to many of our colleagues and friends and then say a very brief word about what I think this bill is really about.

I want to start off by thanking the extraordinary staffs, mine and those of the members of our committee, Democrats and Republicans alike. We are enormously blessed to have men and women who are committed and dedicated to trying to strengthen the educational system of this country. To a great extent I hope they feel some satisfaction this evening with the completion of this legislation.

As has been pointed out by my friend Senator DODD, we had areas of differences but there was no real difference in our desire to send a very clear message, which tonight we are sending to families all across this country, that help is on the way.

The legislation that was passed a short while ago was not a Democratic bill or a Republican bill; it was an education bill. Stated very clearly with this extraordinary vote—91 votes in favor of this legislation—this Senate is committed to the future of this country. That is what this is about. It is about the hopes and dreams of children, their desire to excel in athletics and sports, but also in the classrooms. When they have exciting and innovative and creative teachers, when they have interesting curricula and it is all well taught and supported by parents—all of that is really about the future of America.

This vote this evening is a clear manifestation of what has been happening over the past days on the floor of the Senate. Democrats and Republicans were coming together on this central issue, the core issue, the first issue for American families. All parents understand the importance of children's dreams. We realize, really, the greatest limitation on those children's dreams is the failure to provide the opportunity for those children's minds to be as expansive as they possibly can be, to be interested and informed, benefitting from educational opportunities which, hopefully, we have strengthened in this legislation.

First, I thank Denzel McGuire and Stephanie Monroe of Senator GREGG's office; Holly Kuzmich of Senator HUTCHINSON's staff; Maureen Marshall of Senator COLLINS' staff; David Crane and John Mashburn of Senator LOTT's staff; Mark Powden and Sherry Kaiman of Senator JEFFORDS' staff; Lloyd Horwich of Senator DODD's staff; Carmel Martin and Dan Alpert of Senator BINGAMAN's staff; and Elizabeth Fay of Senator BAYH's staff; Michelle Stockwell of Senator LIEBERMAN's staff.

I also thank Sandy Kress, who has been enormously helpful to all of us in the Senate, Democrats and Republicans alike, representing the President. She is a person who understands the President's views very completely. She is a forceful fighter for the position of the President. But as I said on many occasions, she doesn't always say no. She understands the importance of attempting to fight for the position of the President. I thank as well Townsend McNitt of the White House staff as well, who was enormously valuable and helpful to us.

I thank Secretary Paige for his work. Secretary Paige really set the tone for this legislation. At the time of his swearing in, I asked if he would be good enough to come up and meet with all the Democrats. He came up for a meeting. We had very good attendance. I think almost our whole Democratic caucus was in attendance. He stayed there until the last question was asked. It was a very impressive presentation. Since that time, he has been available and accessible to all of us on matters with which we were concerned.

I could not possibly have made much difference in this effort without, really, the tireless work of my own staff: Jane Oates, Michael Dannenberg, and Roberto Rodriguez, for their indispensable roles—all of our staff, of whom I am so proud. They are superb professionals who take great pride in their work, as they should, and as I do in them.

My thanks go to Jim Manley for his able assistance; Danica Petroshius, Dana Fiordaliso, and Ben Cope for the amazing support over the weeks—most of all to Danica Petroshius, whose leadership, energy, and vision has made all

the difference. I thank Danica so much. Her friendship I value greatly.

I am very fortunate for in our staff we have not only great professionals, but they are also great friends. We have a good opportunity to work together. I am not always sure they felt that way for every moment over these past 8 weeks, but I want them to know that is the way I felt about them.

Let me thank also our colleagues who were really indispensable. One of the things that makes it so satisfying to work on our committee, as well as being productive, is there is a great coming together by Democrats and Republicans.

I think the markups were enormously spirited with very good debate and discussion of different viewpoints. But there is a great deal of respect for the opinions of each other. In our committee we have tried to work out some special responsibilities. All members have had great commitment in the area of education.

Of course, when we think of Senator DODD, we think of the children's caucus and all the good work he has done in those areas, particularly in the after-school programs.

TOM HARKIN: We think of his efforts to make sure we are going to have modern classrooms for our children.

Senator MIKULSKI has been singular in her work in trying to focus on the digital divide to make sure we are not going to have the disparities in the digital divisions what we have had in educational divisions. She has been light-years ahead of the rest of us in understanding this and in helping us to try to minimize it.

JEFF BINGAMAN knows more about accountability than any other Member and has been such a leader in this area.

Senator WELLSTONE has been so passionate on so many different issues. I can think of his contributions, particularly on this legislation, to try to make sure we address the quality of our testing and to make sure that children are going to be treated fairly and equitably. I know he has serious reservations about many of these provisions. Our committee is so much the better for having Senator WELLSTONE, as is the Senate.

JACK REED comes from a long tradition of interest in education, not only since he has been in the Senate but also as a House Member. He follows in the Senate Claiborne Pell, who was chairman of our Education Committee. Senator REED understands the importance of quality education and the importance of parental involvement, and also the recognition of libraries as a special priority to children. I still think we missed some important opportunities in being able to adopt some of the Reed amendments because we are enhancing dramatically the reading programs which the President has stood behind. We need good, effective libraries over the long range. JACK REED understands this.

Senator MURRAY—I can still hear her eloquent pleas for us to go to smaller class size—as a former schoolteacher, brings dimension to our education issues which are unique. Senator EDWARDS, who is so much involved in the development of the education policy in North Carolina, which has really been singular in its achievement, shared with us these extraordinary lessons and made valuable contributions.

Senator CLINTON probably has spent more time in schools in New York and as much as any Member of the Senate has spent time in schools, learning and speaking. Of course, we were advantaged by the fact that when she arrived on our committee, she already had a lifetime of involvement in children's issues and educational issues. Since she arrived on that committee, from the first day we benefited from her experience.

I also thank Connie Garner of my staff for her tireless dedication. She has worked on issues involving the disabilities questions. She left a sickbed. She was there 3 weeks ago in a very important medical condition, from which she has recovered. But she was quick to put aside the attention to her own health in order to be in here and be with us on these debates on matters dealing with disability. She is the proud mother of eight, at last count. Connie is the proud mother of a disabled child, and she has made an extraordinary mark on disability policy.

I want to finally thank the one who pulled all of this together for our committee, Michael Myers, with whom I have had the good opportunity to work on many different policy issues for years, starting with refugees years and years ago, longer than he may want to remember. He has the extraordinary ability to make a lot of different issues, policy questions, and problems a great deal easier. He is a problem solver with rare qualities. In an undertaking such as we had, he was absolutely, extraordinarily valuable.

I thanked earlier Senator JEFFORDS and spoke about his very special contributions.

I also thank Senator GREGG, who has spent a good deal of time here on the floor. I always enjoy working with him—more often when we agree than when we disagree. But it is always a pleasure.

Senator FRIST—who has worked on education—and I have worked closely together on health care.

I thank Senator HUTCHISON, Senator COLLINS, and other members of our committee.

We had the benefit also of Senator LIEBERMAN and Senator BAYH. Senator BAYH took special interest in education as a Governor. After being Governor, he brought those interests here to the Senate. He is not a member of our committee but is as thoughtful about issues on education as one can possibly imagine. Senator LIEBERMAN has made education one of his great areas of specialization and has been both an enormously helpful and valuable ally as we have pursued this issue.

I thank all of the outside groups who have worked with us. We tried to communicate as much as we possibly could as we were working through this process. We tried to do as good a job as we could. I thought we did a decent job. I am sure there are people to whom we owe an apology. I extend that apology. If we weren't able to get to you, or answer your questions on some of these matters, we will take the opportunity now and invite those who are concerned about this to examine this bill and to give us their ideas as we go to the conference. We are very grateful for all of the outside help and assistance we had.

I commend all the students, parents, and teachers who left an indelible mark on this legislation, and thank them for their commitment and willingness to put aside the divisions of the past and find constructive compromise to improve education for all students and all public schools across the country. It is a good bill. It has strong support.

I thank the floor staff, who are always available to us and who are invaluable in working through complex and difficult situations on the floor. They have been absolutely superb, wonderful professionals.

Finally, I thank Senator HARRY REID who was absolutely instrumental. He is not on our committee, but I think at the end of these 8 weeks he knows more about education than perhaps he intended to at the start of this legislation. He is learning more about every bill because there isn't an ally—having been here as long as I have been and having had the good fortune to be a floor manager of legislation—there is no one who has greater value as a floor manager than the Senator from Nevada. He has extraordinary skills, and he uses them in amazing ways. He was able to get things achieved and move this process along. People might ask, Well, how much of a difference does it make? It makes the difference between success and failure. Make no mistake about it, it makes the difference between success and failure. And we would not be here with that success in terms of the strong support of the Members of this body tonight had it not been for my friend and colleague, Senator REID. I am enormously grateful to him for all of his good work. I thank him for all he has done. We look forward to seeing him in harness next week on the Patients' Bill Of Rights. And hopefully he will be able to dispose of those 300 amendments, as he was able to dispose of the 300 amendments that were offered to this bill and get us to final passage.

Finally, I thank the clerks and also all the pages for their help and assistance during this time.

Mr. REID. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. REID. I was not coming to hear the laudatory remarks of the Senator, but I appreciate having heard them. It

is not often in the Senate we have the opportunity to say good things about each other; We are busy trying to get an amendment adopted or give a speech we need to give, and all the things we need to do.

But I cannot help but reflect on the time I have had to spend with the Senator from Massachusetts on this bill because my mind goes back to when I was just a boy, a student at Utah State University. I say to the Senator, your brother was running for President, and I was enthused about helping him. I was in Republican territory, Utah State University in Logan, UT. So I formed at that university a young Democratic club: Young Democrats. And one of the prize possessions I have in the world is a letter written by John Kennedy after that successful election. I have it hanging on the wall in my office in the Hart Building, where he acknowledged we formed this club and perhaps helped him a little bit.

I told the Senator the first day I came to the Senate what an honor it was for me to serve with TED KENNEDY, a person who is one of the well-known people of the world, who has been such an example for how you deal with your family for all of us.

For me, on a personal basis, I say to the Senator, to be able to legislate with you has been a dream of a lifetime. And then to have the senior Senator from Massachusetts say some nice things about me is even something that I never dreamed would happen. So there is mutual admiration. I appreciate the Senator's nice remarks.

Mr. KENNEDY. I thank the Senator and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I did not have the opportunity to hear all of the remarks made by our distinguished colleagues, but I also come to the floor to congratulate our colleague, Senator KENNEDY, for the remarkable job he has done in getting us to this point. I think it is fair to say—I hope the country understands this—this bill would not be where it is today, we would not have passed it 91–8, if it were not for his persistence, his incredible leadership, and the ability he has to once again bring both sides together.

I have had the good fortune now to work with our colleague from Massachusetts on so many things, and I am awed, I am inspired, and I am, indeed, grateful for his friendship and for the extraordinary leadership he provides. So I thank him and congratulate him in particular.

Let me also congratulate our colleague, Senator JEFFORDS. He has gone through a very difficult period. He began by providing us with leadership on the Republican side as we took up this piece of legislation—now as an Independent, caucusing with us. He has voted and supported this legislation all the way through. His leadership, his commitment, his work also deserve special recognition.

He is not in the Chamber at this time, but I just want to say, on behalf of the entire Senate, we thank him for what he has done and the manner in which he has done it.

Of course, there are many others who have been very active. I cite especially Senator LIEBERMAN and Senator BAYH for their efforts in working with Senator KENNEDY. They have been extraordinary in their efforts to find common ground.

We started in our caucus in some ways divided. We ended this whole debate more unified on education than we have been in a long time, and it is in part because of the work they have done.

Senator DODD, with his passion, his commitment, deserves special recognition as well. I salute him for the efforts he made to find ways to address the concerns he has with the bill. I thank him for his participation.

Let me finally say, as Senator KENNEDY has, and others have already noted, the one person who is not on the HELP Committee who probably had as much to do with getting this job done as anybody has—or ever will on a piece of legislation—is our assistant Democratic leader. You can only love HARRY REID if you know him. And I don't know of anybody who does not love him and have the affection for him that I do. He once again demonstrated his value not only to our caucus but to the Senate and to the country with the manner and the tremendous ability he demonstrates in working with us each and every day. He is the single best person any manager could ever hope to have as they work to try to resolve outstanding differences, scheduling conflicts, and the array of challenges we face in trying to work through any bill.

So I acknowledge and congratulate our dear friend, Senator HARRY REID, our assistant Democratic leader, for the work he has done in getting us to this point.

I will have a number of matters to raise as we prepare to close, Madam President, but at this point I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before the Senator from South Dakota, the majority leader, leaves the Chamber, on behalf of Senator KENNEDY and myself, I would like to acknowledge, Mr. Leader, that it is nice you said good things about us—and we really appreciate it—but everyone should know, especially the people in South Dakota, that when things got rough out here, we always had to turn to you.

We were able to do a lot of things. We had a good time working together. We enjoyed our partnership. But when it came time to make the really tough decisions, we had to turn to you.

I would like to say this is the first real week of your leadership as majority leader. I hope this is a message of things to come because we were able, on a bipartisan basis—this was not the Democratic leadership pushing things through. We had to turn to you, and when it really got tough, we were able to work this out. There was no better example of that than today. It is a small miracle we finished today.

We had to go back to the office, bring you out here, and as a result of that, it was above our pay grade—Senator KENNEDY and I—but it certainly is not above your pay grade. As I have said so many times—and I appreciate your kind remarks about me —neither one of us could have made this bill happen but for you.

Mr. KENNEDY. Will the Senator yield?

Mr. REID. Yes.

Mr. KENNEDY. I don't think we called on him more than 25 times a day, asking him to come out here to help us out.

But in a serious way, I just underline what Senator REID has said: The ultimate credit for this achievement is with the leader of the Senate; that is, our new leader and our friend, Senator DASCHLE. I think all of us understand that is what leadership is really about. We were able to get this done and done in a bipartisan way.

Senator DASCHLE announced when he assumed the leadership the way he wanted this institution to be run, and that is the way it was run. Members all through this debate were able to have their views either voted on or considered, unfettered by parliamentary gimmicks. The abuse of parliamentary technique was not in play. There was full, open, frank debate and discussion and accountability. It is a breath of fresh air in terms of the functioning of this body. It is really what I think most of us believe this body is really all about.

It is a real honor and pleasure to know TOM DASCHLE is leading this institution. I thank him for his words.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I also express my appreciation for all who have been involved in this bill.

I say to Senator KENNEDY, a number of people on this side of the aisle have expressed their appreciation for your leadership. You are a great advocate, but also you manage a bill very well.

Mr. KENNEDY. I thank the Senator.

Mr. SESSIONS. The process that we utilized worked well. Everybody got their votes and got their say. Matters went along fine.

President Bush, as a Governor, committed to doing something about education in his State. He was hands on in that effort. As a result, he knew something about education when he ran for President. He determined that it would not be business as usual. He was convinced that children were being left behind, that they were finding themselves in seventh, eighth, and ninth grades unable to do basic education work, and tragedies were in store for them. He got to know some outstanding individuals in education in

Texas. One was Dr. Rod Paige, the superintendent of the Houston school system, 207,000 students, one of the largest in America.

Secretary Paige had made some real progress there. When he took over in 1995 in that school system, he found only 37 percent of the students were passing the basic Texas test. He had been the dean of a school of higher education. He determined that they could do better, and he insisted that they do better. In 5 years, he doubled that number—1 percentage point from doubling —to 73 percent passing.

President Bush saw that. He appreciated that achievement. He was determined to try to bring that kind of progress throughout America. That is why he selected Dr. Rod Paige as his Secretary of Education.

Dr. Paige eliminated social promotion. He improved testing. He cracked down on schools that did not work, and he cracked down on discipline problems. It was a real achievement of an extraordinary degree that should give us all hope that we can make much better progress with education than we think.

My wife taught. I have been in 20 schools this year. There are teachers around this country teaching their hearts out every day, giving their level best to education. If we can create a system that nurtures them and allows their talents to flourish and not be clamped down by rules and regulations and such, I believe we have the potential for extraordinary progress in education.

Finally, I note that testing is critical because if you love children and you care about them and you do not want them to fall behind, you will find out how they are doing. The parents need to know. The teachers need to know. The principals need to know. Everybody needs to know whether learning is occurring.

When a child is falling behind in basic reading and math—and they will have to be tested in this program—then you can deal with it. If we let them get to junior high, high school, ninth grade, typically, and they can't do basic math and can't read effectively, they drop out. That is a great tragedy. They will be left behind. We should not allow that.

This bill will move us forward. The President will support unprecedented increases in education this year, but he wants that kind of reform. It is part of the bill. I am confident it will come out of the conference committee in a way that he can support.

I thank Senator DASCHLE for his leadership and his time in the late evening.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I compliment the distinguished Senator from Alabama for his comments. I agree with much of what I heard. I think he is absolutely right. This is a real accomplishment. And for people who care about education on both sides of the aisle, we made real progress today. I am proud to be a part of it. I appreciate his comments.

Madam President, I want to acknowledge the leadership of Senator LOTT, our Republican leader. He was majority leader when we started. We had a number of discussions as we considered how to take up this bill. It was Senator LOTT who said: We are going to take it up, and we are going to let amendments roll. We are going to let amendments be offered. We are not going to use extralegal parliamentary devices. We are going to stay with the agreement we had under the power sharing. He did it, and he did it with real style.

The day should not end without a recognition of Senator LOTT's commitment in that regard and the leadership he provided to allow us to complete the bill today.

Senator JUDD GREGG from New Hampshire also deserves special recognition. He stepped in at the end, completed the bill, as the Republican manager. I acknowledge his leadership as well.

COMMEMORATION OF FLAG DAY

Mr. THURMOND. Mr. President, two hundred and twenty-four years ago today, the United States was engaged in its War for Independence. I note that the American Continental Army, now the United States Army, was established by the Continental Congress, just two years earlier on June 14, 1775. I express my congratulations to the United States Army on its 226th birthday.

At the start of that War, American colonists fought under a variety of local flags. The Continental Colors, or Grand Union Flag, was the unofficial national flag from 1775–1777. This flag had thirteen alternating red and white stripes, with the English flag in the upper left corner.

Following the publication of the Declaration of Independence, it was no longer appropriate to fly a banner containing the British flag. Accordingly, on June 14, 1777, the Continental Congress passed a resolution that ''the Flag of the United States be 13 stripes alternate red and white, and the Union be 13 stars white and a blue field representing a new constellation.''

No record exists as to why the Continental Congress adopted the now-familiar red, white and blue. A later action by the Congress, convened under the Articles of Confederation, may provide an appropriate interpretation on the use of these colors. Five years after adopting the flag resolution, in 1782, a resolution regarding the Great Seal of the United States contained a statement on the meanings of the colors: red—for hardiness and courage; white—for purity and innocence; and blue for vigilance, perseverance, and justice.

The stripes, symbolic of the thirteen original colonies, were similar to the five red and four white stripes on the flag of the Sons of Liberty, an early colonial flag. The stars of the first national flag after 1777 were arranged in a variety of patterns. The most popular design placed the stars in alternating rows of three or two stars. Another flag placed twelve stars in a circle with the thirteenth star in the center. A now popular image of a flag of that day, although it was rarely used at the time, placed the thirteen stars in a circle.

As our country has grown, the Stars and Stripes have undergone necessary modifications. Alterations include the addition, then deletion, of stripes; and the addition and rearrangement of the field of stars.

While our Star-Spangled Banner has seen changes, the message it represents is constant. That message is one of patriotism and respect, wherever the flag is found flying. Henry Ward Beecher, a prominent 19th century clergyman and lecturer stated, ''A thoughtful mind, when it sees a Nation's flag, sees not the flag only, but the Nation itself; and whatever may be its symbols, its insignia, he reads chiefly in the flag the Government, the principles, the truths, and the history which belong to the nation that sets it forth.''

Old Glory represents the land, the people, the government and the ideals of the United States, no matter when or where it is displayed throughout the world—in land battle, the first such occurrence being August 16, 1777 at the Battle of Bennington; on a U.S. Navy ship, such as the *Ranger*, under the command of John Paul Jones in November 1777; or in Antarctica, in 1840, on the pilot boat *Flying Fish* of the Charles Wilkes expedition.

The flag has proudly represented our Republic beyond the Earth and into the heavens. The stirring images of Neil Armstrong and Edwin Aldrin saluting the flag on the moon, on July 20, 1969 moved the Nation to new heights of patriotism and national pride.

Today we pause to commemorate our Nation's most clear symbol—our flag. An early account of a day of celebration of the flag was reported by the Hartford Courant suggesting an observance was held throughout the State of Connecticut, in 1861. The origin of our modern Flag Day is often traced to the work of Bernard Cigrand, who in 1885 held his own observance of the flag's birthday in his one-room schoolhouse in Waubeka, Wisconsin. This began his decades-long campaign for a day of national recognition of the Flag. His advocacy for this cause was reflected in numerous newspaper articles, books, magazines and lectures of the day. His celebrated pamphlet on ''Laws and Customs Regulating the Use of the Flag of the United States'' received wide distribution.

His petition to President Woodrow Wilson for a national observance was rewarded with a Presidential Proclamation designating June 14, 1916 as Flag Day. On a prior occasion President Wilson noted, ''Things that the flag stands for were created by the experiences of a great people. Everything

that it stands for was written by their lives. The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under the flag.''

Flag Day was officially designated a National observance by a Joint Resolution approved by Congress and the President in 1949, and first celebrated the following year. This year, then, marks the 51st anniversary of a Congressionally designated Flag Day.

It is appropriate that we pause today, on this Flag Day, to render our respect and honor to the symbol of our Nation, and to review our commitment to the underlying principles it represents. Today, let us reflect on the deeds and sacrifices of those who have gone before and the legacy they left to us. Let us ponder our own endeavors and the inheritance we will leave to future generations.

Finally, as we commemorate the heritage our flag represents, may we as a Nation pledge not only our allegiance, but also our efforts to furthering the standards represented by its colors—courage, virtue, perseverance, and justice. Through these universal concepts, We the People can ensure better lives for ourselves and our children, for these are the characteristics of greatness. In doing so, we can move closer to the goal so well stated by Daniel Webster at the laying of the cornerstone of the Bunker Hill Monument on June 17, 1825. On that occasion he said, ''Let our object be our country, our whole country, and nothing but our country. And, by the blessing of God, may that country itself become a vast and splendid monument, not of oppression and terror, but of Wisdom, of Peace, and of Liberty, upon which the world may gaze with admiration forever.''

I have long supported legislation which imposes penalties on anyone who knowingly mutilates, defaces, burns, tramples upon, or physically defiles any U.S. flag. I have also supported a constitutional amendment to grant Congress and the States the power to prohibit the physical desecration of the U.S. flag. I regret that the Senate has yet to adopt a Resolution for a flag protection Constitutional amendment.

I am pleased that the Senate adopted a Resolution to provide for a designated Senator to lead the Senate in reciting the Pledge of Allegiance to the Flag of the United States. This has added greatly to the opening of the Senate each day.

Today I encourage my colleagues and all Americans to take note of the history and meaning of this 14th day of June. We celebrate our Flag, observing its 224th birthday, and the 226-year-old Army which has so proudly and valiantly defended it and our great Nation.

MICHIGAN'S GUN LAWS

Mr. LEVIN. Mr. President, on New Years Day 2001, the Governor of Michigan signed into law a bill to take discretion away from local gun boards to issue concealed gun licenses and require authorities to issue concealed weapons licenses to any one 21 years or older without a criminal record, with limited exceptions. Under the law, the number of concealed handgun licenses in our State would grow by 200,000 to 300,000 a ten-fold increase. Needless to say, the law has the potential to increase gun violence in Michigan and endanger the lives of thousands of people. Istrongly believe that this law is better suited to the old West than the new millennium.

I am pleased to report that hundreds of thousands of my fellow Michiganders agree with me. While the law was scheduled to take effect on July 1st of this year, a coalition of law enforcement and community groups from across our State called the People Who Care About Kids collected 232,582 signatures on a petition to suspend the law and put it before the voters in 2002. One of those signatures was mine.

Now the issue is before the courts. Just last month, a State Appeals Court ruled unanimously that the referendum process should proceed. And this Wednesday the Michigan Supreme Court heard arguments on whether the Appeals Court ruling should stand. For the good of my State and for the safety of its citizens, I hope that the Supreme Court upholds the lower court ruling and lets the voters decide the issue. If voters are given the opportunity, I am confident that this wrongheaded effort to roll back Michigan's gun laws will be defeated.

BUDGET PROCESS

Mr. HOLLINGS. Mr. President, in this morning's Washington Post we finally hear the truth. President pro tempore ROBERT C. BYRD tells it like it is. Republican and Democrat, White House and Congress, and the people generally take heed.

I ask consent that an article from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 14, 2001]

INHERITED MESS

(By Robert C. Byrd)

The president's budget director, Mitchell Daniels, has made an impassioned plea [opted, June 5] for Congress to achieve an ''orderly and responsible budget and appropriations process'' this year despite the sudden turn-about in the Senate from Republican to Democratic control

While lauding the president's continuing efforts to civilize the tone of business in Washington, Daniels blamed Congress for routinely circumventing budget resolution ceilings to fund runaway appropriations. This year, he predicted, would have been different had the Republicans maintained control of the Senate, and he exhorted Democrats to withstand the siren song of ''games and gimmicks'' in the appropriations process so as to avoid upsetting the budget apple cart.

Unfortunately, the deck is stacked against the appropriators. The dice are loaded. The wheel is rigged. Regardless of whether a Democrat or a Republican chairs the Appropriations Committee, the unrealistically low budget targets and tax-cut combo will again perpetuate a yearly hoax on the American people.

Despite all the brave talk of fiscal restraint, the Appropriations committees will quietly be asked to spend more money than the budget allows. We know the president will ask us to spend billions more on defense. We know we will be asked to spend billions more on education. We know we have billions of dollars in both unmet and unanticipated needs that we will have a responsibility to fund.

We know this. The president knows this. The president's budget director well knows this. The American people should know this. The American people are entitled to truth in budgeting. These programs are not just the priorities of a Democratic Senate. These are the priorities of the president. They are the priorities of the nation. They have to be addressed.

Here is the true state of affairs. The budget pays lip service to sizable funding increases for national security, but it doesn't back up its promises with the necessary resources. For non-defense programs, the budget falls $5.5 billion below the level necessary just to keep pace with inflation. What this means is that the nation is fiscally frozen in time, unable to reduce massive backlogs in critical programs that have been piling up for years, and equally unable to anticipate emerging needs.

Simply put, the budget resolution and the tax cut combined deny the resources that Congress—regardless of which party is in power—needs to meet a growing nation's requirements. The scarce dollars that are needed for education, Social Security, Medicare, prescription drug benefits and the many other important priorities of the American people will have to come from somewhere.

Democrats do not want to resort to gimmicks or game. We were outraged when the Republicans resorted to them—when they hijacked the budget from the Budget Committee over the objections of the Democrats, and then added insult to injury by shutting Democrats out of the conference process. But when a budget resolution allows for a massive tax-cut proposal yet fails to allow for the increased funding for national defense and for education that we all know the president will request, the ''evasions and gimmickry'' have begun.

Appropriators welcome cooperation. We encourage flexibility. We seek good-faith dealings with the White House and with both sides of the aisle. We ask only that the administration reciprocate in kind. A good place to start would be to avoid preemptive finger pointing in the media.

To attempt to back the Senate Appropriations Committee into a corner by suggesting that Democrats are suddenly in a position to derail ''the first orderly, responsible budget and appropriations process in many years'' is to belie the facts. The budget process was anything but ''orderly and responsible'' this year. In fact, the budget process has been convenient political cover for ''games and gimmickry'' for several years. And we all know it.

This is the scenario that the Democratic Senate has inherited, and this is the reality that Congress and the administration face in the coming months as we work our way through the appropriations process.

The Senate Appropriations Committee will review the details of the president's budget and we will, on a bipartisan basis, do our best to produce 13 responsible and disciplined

appropriations bills. It is my hope that we can address this daunting challenge in a spirit of cooperation, and work together to replace partisan rhetoric with responsible solutions.

And if OMB Director Daniels really wants to help his president change the climate in Washington, he can work to stop the blame game in its very tired tracks.

ACADEMIC ACHIEVEMENT IN PORTLAND PUBLIC SCHOOLS

Mr. SMITH of Oregon. Mr. President, I rise today to commend the exceptional achievement of 8 schools in Portland, OR: Humboldt, Marysville, Chief Joseph, Woodmere, Clark, Grout, Kenton and Vestal Elementary Schools.

We have spent 8 weeks in this Chamber talking about education. We have debated the best ways to educate America's children, to raise academic achievement of disadvantaged students, and change failing schools into successes. While we have been busy talking, schools in my home State have been working hard to educate our children.

I want to make special mention of eight schools in the Portland Public School District. Over the past 3 years, these remarkable schools—where more than half of the students come from low income families—made greater strides in raising student test scores than all others in the school district. Due to the hard work of students, parents, teachers, and principals, reading and math scores have significantly improved, the achievement gap between poor and minority students and white students narrowed, and parents, including those new to our country, became part of the fabric of the school community.

Today, I commend the principals and teachers of these great schools. These educators represent an ideal. They are dedicated; they are creative; and they transform children into scholars. They will do anything for their students, even work extra jobs to earn money to buy books for their students. Their hard work has helped their students achieve record academic improvement today and it has set the stage for these children's success for years to come. I thank them for their efforts.

I also thank the parents of these children. They have made a real difference in their children's education by volunteering at school, reading with their children, and encouraging their students to devote their best efforts to their studies.

Above all, I salute the students of these outstanding schools. The countless hours they have spent inside and outside the classroom practicing their reading and writing, working math problems, and conducting science experiments have not been in vain. They have paid off in a remarkable way. Many of these students don't speak English as their first language; many come from low income families; and all are from areas of the city which had never expected to see such success. Yet these very students have realized this extraordinary accomplishment.

The improvements in the test scores of these children are incredible. The Oregonian newspaper reports the following: At Humboldt [Elementary], 71 percent of fifth graders in 2000 met or exceeded math benchmarks. Only 31 percent of those students met math standards as third graders in 1998. At Marysville Elementary in Southeast Portland, 78 percent of fifth-graders met math benchmarks in 2000. Thirty-two percent of those students passed the State math test as third graders.

But even more important than these significant gains in test scores, these dedicated students have cultivated a love of learning that will last the rest of their lives. This thirst for knowledge guarantees that this is just the first of many successes to come.

A study by the Portland Public Schools Foundation attributed the advances of these schools to the same principles we have been discussing here: strong principals, high parent involvement, and professional development opportunities for teachers.

I share the achievement of these students with my colleagues because it reminds every member of the U.S. Senate that better education is becoming a reality across America. Our work here is important, but the true source of academic achievement is the dedication, the dreams, and the hard work of students, teachers, and principals like these in Portland. The best we can do is to give them the tools they need to succeed.

In closing, allow me to commend, once again, the students, parents, and educators in these schools for this great accomplishment, for the hope they give us, and for the high standard they set for all of us.

REMEMBERING THE MIA'S OF SULTAN YAQUB

Mr. SCHUMER. Mr. President, I rise today to ask my colleagues to join me in remembering the Israeli soldiers captured by the Syrians during the 1982 Israeli war in Lebanon.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in the Bekaa Valley in northeastern Lebanon. Sergeant Zachary Baumel, First Sergeant Zvi Feldman, and Corporal Yehudah Katz were captured by the Syrians that day. They were identified as an Israeli tank crew, and reported missing in Damascus. The Israeli tank, flying the Syrian and Palestinian flag, was greeted with cheers from bystanders

Since that terrible day in 1982, the governments of Israel and the United States have been doing their utmost by working with the office of the International Committee of the Red Cross, the United Nations, and other international bodies to obtain any possible information about the fate of the missing soldiers. According to the Geneva Convention, Syria is responsible for the fates of the Israeli soldiers because the area in Lebanon where the solders disappeared was continually controlled by Syria. To this day, despite promises made by the government of Syria and by the Palestinians, very little information has been released about the condition of Zachary Baumel, Zvi Feldman, and Yehudah Katz.

Monday marked the anniversary of the day that these solders were reported missing in action. Nineteen pain-filled years have passed since their families have seen their sons, and still Syria has not revealed their whereabouts nor provided any information as to their condition.

One of these missing soldiers, Zachary Baumel is an American citizen, from my home of Brooklyn, NY. An ardent basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew University, where he had been accepted to study psychology. But fate decreed otherwise and on June 11, 1982, he disappeared with Zvi Feldman and Yehudah Katz.

Zachary's parents Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Baumels, as well as the Union of Orthodox Jewish Congregations of America, the American Coalition for Missing Israeli Soldiers, and the MIA Task Force of the Conference of Presidents of Major American Jewish Organizations. These groups have been at the forefront of this pursuit of justice. I want to recognize their good work and ask my colleagues to join me in supporting their efforts. For nineteen years, these families have been without their children. Answers are long overdue.

I am not only saddened by the plight of Zachary Baumel, Zvi Feldman, and Yehudah Katz, but I am disheartened and angered by the fact that even as we continue to search for answers about their welfare, we must add more names to the list of those for who we have no knowledge of their location, health, or safety.

In a clear-cut violation of international law, three Israeli soldiers were abducted by Hezbollah on October 7, 2000 while on operational duty along the border fence in the Dov Mountain range along Israel's border with Lebanon. The soldiers—Sergeant Adi Avitan of Tiberias, Staff Sergeant Binyamin Avraham of Bnei Brak, and Staff Sergeant Omar Souad of Salma—are believed to have been wounded during the incident.

According to an investigation by the IDF Northern Command, Hezbollah terrorists set two roadside bombs, then

crossed through a gate near the fence, pulled the three soldiers out of their jeep and fired anti-armor missiles at the empty vehicle. The solders were then taken by the terrorists to the Lebanese side of the border. Although the United States has called on Syria to assist in the timely release of these three soldiers, no information has been given as to their conditions or whereabouts. The International Red Cross has also been requested to intervene by attempting to arrange for a visit with the three kidnapped IDF soldiers in order to ascertain their status.

The agony of the families of these kidnapped Israeli solders is extreme. They have not heard a word regarding the fate of their sons who are being held captive for political ransom. We must pledge to do our utmost to bring these soldiers home, for the sake of peace, decency and humanity.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I want to describe a terrible crime that occurred June 20, 1993 in Everett, Washington. A gay man was stabbed to death by a hitchhiker who allegedly told friends he committed the crime because he hated homosexuals. Isaiah Clarence Enault, 24, was charged with murder and is a suspect in a stabbing assault of another gay man.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

HONORING CLAY COUNTY LEGACY MEMORIAL AND FOUNTAIN

Mrs. CARNAHAN. Mr. President, I would like to take this opportunity to honor the residents of Clay County, MO for their vision, harmony, and unity. At a time when some communities are engaged in divisive debates regarding our Nation's past, Clay County residents have chosen to dedicate a monument and water fountain on the county courthouse lawn honoring the unsung black heroes and heroines who survived slavery and helped make Clay County a successful and thriving community in the heartland.

Tomorrow, Friday, June 15, the Clay County Commission and the Clay County African-American Legacy Consortium will dedicate the Legacy Memorial and Fountain honoring Clay County African-American pioneers and their contributions to this county, first in slavery, and then in freedom. The location of the memorial and fountain is especially significant since slaves were once sold from the courthouse steps and African-Americans were required to drink from separate water fountains in that very building.

The monument will list over 150 Clay County African-Americans and their contributions to this community dating back to 1800. Included in the monument's listing are Vennie and Lulu Fielder. Mr. and Mrs. Fielder both became entrepreneurs, opening Fielder Hardware and Box Company in Kansas City, Missouri, and Lulu Fielder's Sandwich Shoppe. Mrs. Lulu Fielder is now the oldest living African-American native resident of Clay County at the young age of 102. Mrs. Fielder will take the first ceremonial drink from the water fountain at tomorrow's celebration. And with that drink, Lulu Fielder will epitomize the words inscribed on the monument, ''come, drink, all who thirst for freedom; the water fountain will no longer separate us as a people.''

Congratulations to the Clay County Commission, the Clay County African-American Legacy Consortium, and all Clay County residents. Thank you for making me proud to be a Missourian.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

Mr. MILLER. Mr. President, in education everyone claims to be for high standards. That's the good news. But a lot of folks only want to be measured by their own standards, and they don't have a very good way of knowing whether their standards are high or, more importantly, whether they are high enough.

That is why I am for measuring educational progress in America by having each State use its own standards and tests and then confirming progress by using a high-quality back-up examination. The National Assessment of Educational Progress is just such an instrument. It will help us get more information about achievement in our States and provide an independent second opinion that our student achievement progress is reaching all of our students and that we are not raising our scores just by getting a few more of our better students to do better.

In the past ten years 49 States have used the National Assessment in one form or another. This has not led to a national curriculum and it is not going to. On average, more than 40 States have participated in any one year. Last year the State school superintendent or commissioner in 48 States signed up to participate.

In the National Assessment's 30 years, never has a State or district expressed concern that it was being coerced to teach to the National Assessment tests. In fact, each test is developed through a national consensus process in which State standards and assessments are considered. Before deciding to participate, each State reviews the National Assessment content. State participation in the test development process ensures that the National Assessment is a fair representation of the material in math, reading and other subjects that states already believe is important to test.

MISSOURI BOYS STATE

Mrs. CARNAHAN. Mr. President, Saturday, June 16 starts the 62nd session of Missouri Boys State. Founded in 1938 by the Missouri American Legion, Missouri Boys State has educated over 33,000 young men on the basic principles of democracy. For more than 60 years, Missouri Boys State has lived up to its motto and has made an ''investment in our State's greatest resource—the youth of Missouri.''

Boys State was started in 1934 in Illinois by Dr. Hays Kennedy and Harold Card, and was designed to teach democratic ideals to America's youth. The four founding members of Missouri Boys State, Jerry F. Duggan, Harry M. Gambrel, Dr. Truman L. Ingle, and A.B. Weyer, did not realize that Missouri's program would develop into one of the most successful and prestigious programs in the country for youth involvement. The Missouri Boys State program has become one of the most revered honors bestowed upon high school boys in Missouri.

The first session occurred in Fulton, MO in 1938 with 129 young men. This year's session is expected to draw over 1,000 participants including over 100 counselors. From that very first session in 1938 to today, the same message rings true—''Democracy depends on me!'' Boys State continues to stress the important aspects of serving the public and one's community.

The success of Missouri Boys State continues today. In July of 1999, a high school student from Columbia, Missouri, Ryan Rippel, was elected President of Boys Nation. Boys Nation, sponsored annually by the American Legion, is a program by which select students from across the nation gain first-hand experience in how our federal government works through mock Senate activities.

Missouri Boys State has had wide community and public support. Over 500 civic organizations and individuals contribute to the success of this program. A memorial trust was established in 1982 to ensure the continuation of Missouri Boys State. The Missouri Boys State Scholarship fund was established in 1993 to provide a renewable, 4-year college scholarship for the participant that earns the ''Citizen of the Week'' honor. And the Martin Luther King, Jr. Scholarship program was established in 1989 to ensure the continued participation of minority students.

Missouri Boys State plays an integral role in developing our youth in Missouri. Therefore, I ask that my colleagues recognize all that Boys State

does for our young men and wish them well as they open their 2001 session.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 13, 2001, the Federal debt stood at $5,681,952,015,740.15, Five trillion, six hundred eighty-one billion, nine hundred fifty-two million, fifteen thousand, seven hundred forty dollars and fifteen cents.

One year ago, June 13, 2000, the Federal debt stood at $5,651,369,000,000, Five trillion, six hundred fifty-one billion, three hundred sixty-nine million.

Five years ago, June 13, 1996, the Federal debt stood at $5,139,482,000,000, Five trillion, one hundred thirty-nine billion, four hundred eighty-two million.

Ten years ago, June 13, 1991, the Federal debt stood at $3,494,282,000,000, Three trillion, four hundred ninety four billion, two hundred eighty-two million.

Fifteen years ago, June 13, 1986, the Federal debt stood at $2,046,290,000,000, Two trillion, forty-six billion, two hundred ninety million, which reflects a debt increase of more than $3.5 trillion, $3,635,662,015,740.15, Three trillion, six hundred thirty-five billion, six hundred sixty-two million, fifteen thousand, seven hundred forty dollars and fifteen cents during the past 15 years.

ADDITIONAL STATEMENTS

TRIBUTE TO HERBERT SAFFIR

• Mr. GRAHAM. Mr. President, today I would like to recognize an outstanding Floridian, Mr. Herbert Saffir. Herb Saffir graduated from the Georgia Institute of Technology in 1940 with a bachelor's degree in civil engineering. He served in the Army during World War II and worked as an engineer with federal agencies and private-sector firms in New York, Ohio, Tennessee, and Virginia before moving to South Florida in 1947. For the next 12 years he was an assistant county engineer for Miami-Dade County. In 1959, he started his own structural engineering firm, Herbert Saffir Consulting Engineers, in Coral Gables, FL.

Herb Saffir is considered one of the foremost experts on engineering buildings to resist damage by high winds. His expertise was so integral in the formulating of the building codes in South Florida that he is known as the ''father of the Miami building code.'' Although this is a great achievement, Herb Saffir's accolades go even further.

In 1972, Robert Simpson, former Director of the National Hurricane Center had difficulty describing to emergency management and disaster officials what kind of damage to expect from approaching hurricanes. It was determined that a scale was needed to give disaster officials an idea of what to expect from a storm. Herb Saffir was enlisted to work with Simpson on this project. Together they created the Saffir-Simpson Damage Potential Scale, which established the five categories of hurricane severity. The Saffir-Simpson Scale is still used today and is a vital tool to assess the possible destruction associated with an approaching hurricane.

When Hurricane Andrew tore through Florida in August 1992, weather forecasters relayed information on the powerful storm to concerned citizens using the ratings system. But, Herb Saffir was not satisfied to just lend his name to the efforts to mitigate damage from Hurricane Andrew. He also lent a hand. Using his vast engineering knowledge and experience, Mr. Saffir was integral in the rebuilding of South Florida. He was recognized for his efforts with the Florida Engineering Society's Engineer of the Year Award in 1994.

Mr. Saffir work continues to be recognized today. The American Society of Civil Engineers recently recognized Mr. Saffir for his research and development of wind-damage analysis on structures, and for the creation of the Saffir-Simpson Scale now used extensively by emergency management organizations as far away as Australia. In fact, the National Hurricane Center described Mr. Saffir as ''a national treasure.''

Herb Saffir is a remarkable American and a credit to the State of Florida. It brings me great joy to recognize his accomplishments today.•

TRIBUTE TO THE HONORABLE ROBERT B. PIRIE, JR.

• Mr. LEVIN. Mr. President, I rise today to recognize an outstanding public servant, Robert B. Pirie, Jr., as he completes more than 7 years of continuous service within the civilian leadership of the Department of the Navy, first as Assistant Secretary of the Navy, Installations and Environment, then as the Under Secretary of the Navy, and finally as Acting Secretary of the Navy. In each capacity, he worked tirelessly to serve America and our Navy and Marine Corps. His time in the Pentagon was the pinnacle of a public service career spanning fifty years.

Secretary Pirie is a 1955 Naval Academy graduate, whose achievements as a midshipman propelled him to a Rhodes Scholarship. He served 20 years on active duty, a military career that culminated in command-at-sea aboard a nuclear attack submarine. Secretary Pirie went on to provide exceptional public service as a Deputy Assistant Secretary of Defense in the Carter Administration.

When he returned to the Department of the Navy seven and a-half years ago, his confident leadership and far-reaching vision helped the Navy navigate through many complex issues. Whether leading the Department's efforts to conduct critical training at the Atlantic Fleet Weapons Training Facility at Vieques, Puerto Rico, or increasing force protection for Sailors and Marines in the aftermath of the USS COLE terrorist attack, or addressing the encroachment issues that complicate our operational and training ranges, Robert Pirie's leadership has been vital to the readiness and success of our country's military forces.

Secretary Pirie provided exceptional advice, support and guidance to the Secretary of Defense, the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps. His keen insight, relentless dedication, and extraordinary talent have contributed significantly to building and maintaining the world's best-trained, best-equipped, and best-prepared Navy and Marine Corps. His vision has positively shaped the future readiness and capabilities of the fleet in ways that will resonate for many years.

It is a pleasure to recognize Secretary Pirie for his many contributions in a life devoted to our nation's security as he leaves the Department of the Navy. I know my colleagues join me in wishing him and his wife Joan much happiness and fair winds and following seas as they begin a new chapter in their lives.•

IN HONOR OF BARBARA L. BAILEY

• Mr. LIEBERMAN. Mr. President, I rise to speak today in memory of Mrs. Barbara L. Bailey, a great and gracious lady, the first lady of Connecticut Democratic politics, who passed away this past Monday.

As my colleague Senator CLINTON said when she introduced Mrs. Bailey at the White House a few years back, Mrs. Bailey ''has been a stalwart of the Democratic Party in Connecticut and progressive politics . . . in the country.'' I first met Barbara Bailey when I was writing my senior thesis at college on her husband, John Bailey, former Democratic National Committee Chairman under President Kennedy and legendary Connecticut political leader.

Mrs. Bailey was an astute political advisor and partner to her husband. She was known as a gracious host to politicians at all levels of government. Mrs. Bailey entertained such political luminaries as President John F. Kennedy and Vice President Hubert H. Humphrey and many, many others.

After her husband died in 1975 Mrs. Bailey continued to follow Democratic politics closely and actively. In fact, a few years ago four generations of Baileys gathered at the White House when Barbara spoke about the importance of health care and introduced President Clinton at the White House on Mother's Day.

Mrs. Bailey has also spent her life devoted to public service, especially on issues concerning women. Just last month, the 93-year-old Mrs. Bailey received a lifetime achievement award from the Ladies Auxiliary of Saint Francis Hospital and Medical Center in

Hartford. She also spent ten years as a trustee of the University of Connecticut.

Mrs. Bailey is known to Connecticut as the matriarch of a distinguished political family. Her family has always been most important to her and I know it was a joy for her to see her children and grandchildren continue the tradition of civic involvement that she and her husband believed in so deeply. Her daughter, Barbara Bailey Kennelly, is the former U.S. Representative from Connecticut's first district and has run for Governor of the Nutmeg State. Her son, Jack Bailey, is currently the chief State's attorney. And just this summer Mrs. Bailey's grandson, Austin Perkins, represented Connecticut as a delegate to the Democratic National Convention in Los Angeles, CA.

Barbara Bailey's death is a loss for me personally and for the whole of Connecticut. We will remember her fondly as a gracious woman of principle, a champion of good causes and a beloved mother, grandmother and friend.●

IN RECOGNITION OF THE 100TH ANNIVERSARY OF MINNEAPOLIS METAL WORKERS LODGE 459

● Mr. DAYTON. Mr. President, I rise today to salute the Capitol City and Minneapolis Metal Workers Lodge 459 on the occasion of their 100th Anniversary.

For a century, members of this Minnesota Union have fought for and secured fair wages and decent, safe working conditions for all workers. Through the years the brothers and sisters of Lodge 459 have labored tirelessly to guarantee that each worker's rights are respected, each family's future is insured.

A strong labor force is the backbone of our economy; it is the power behind every successful business, every growing community. Today, the proud members of Lodge 459 continue in the strong tradition of their parents and grandparents. They reflect the dedication and determination which are the hallmark of the labor movement in our Nation. Together, they will safeguard the future for our children and grandchildren. And in doing so, they will assure that in America, businesses will thrive, communities will grow, and families will succeed.●

TRIBUTE TO GEORGE C. SPRINGER

● Mr. DODD. Mr. President, I rise to honor George C. Springer, who is stepping down this month after an unprecedented 11 two-year terms as the President of the Connecticut Federation of Educational and Professional Employees, formerly the Connecticut State Federation of Teachers. George will remain active in the union as the recently-appointed director of the American Federation of Teachers' Northeast Region.

I mentioned the change in the union's name because it highlights George's unceasing efforts on behalf of its members. In 1979, when George began his leadership of the union, it had about 11,000 members, almost all of whom were teachers. Today, the union has 24,000 members, including teachers and other professional school-related employees, State and municipal employees, health care professionals, and higher education faculty. Twenty-two years ago, the union had only one full-time officer, two clerical employees, and a handful of field representatives. Today, it has three full-time officers, a staff of 15, and numerous field representatives. George rightly is proud of the increased diversity of his union.

George also ought to be proud of what his advocacy has brought—not only benefits for union members, but also the ability for them to do their jobs better, to better serve the children and all citizens of Connecticut. George tirelessly has fought for greater involvement for the union and its members in legislative and policy matters. I think it is especially appropriate, as we prepare to complete debate on reauthorization of the Elementary and Secondary Education Act of 1965, to talk about how public education in Connecticut has changed for the better during George's tenure.

In 1979, teacher pay was poor, the gap between the quality of schools for wealthy children and those for poor children was great, and relations between the union and school boards was contentious. Today, teacher salaries and student achievement in Connecticut are among the best in the country, the State is working to provide a quality education for all children, and the union frequently works hand in hand with school management to improve the school system.

But, George's influence has not been limited to Connecticut, or even the United States. As President, George has represented the union around the country and around the world, in such places as Brazil, Belgium, Hong Kong, Japan, and Sweden. He also has served as an election observer in South Africa and Nigeria. I have no doubt that from New Britain, Connecticut, where he taught for 20 years, to the many places he has been around the world, George has left his mark. Nor do I doubt that he will continue to leave his mark, as he works hard at the AFT to better connect State and local affiliates with the national organization and with each other.

Tonight, George's fellow union members, other friends, and his family are gathering in Hartford to celebrate his leadership of the union. I regret that I cannot join them in person, but certainly I join them in spirit.

It has been my privilege to know George for many years, and I offer my admiration and gratitude for his work, and best wishes as he moves on to new challenges.●

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

ENROLLED BILL SIGNED

At 9:19 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1914. An act to extend for 4 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

At 11:53 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1157. An act to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes.

H.R. 2052. An act to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

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. 145. Concurrent resolution condemning the recent order by the Taliban regime of Afghanistan to require Hindus in Afghanistan to wear symbols identifying them as Hindu.

At 4:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1088. An act to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1157. An act to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for

salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 145. Concurrent resolution condemning the recent order by the Taliban regime of Afghanistan to require Hindus in Afghanistan to wear symbols identifying them as Hindu; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1088. An act to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

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 Mrs. HUTCHISON (for herself, Mr. INOUYE, Mr. HUTCHINSON, and Mr. STEVENS):

S. 1037. A bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes; to the Committee on Armed Services.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 1038. A bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions; to the Committee on Finance.

By Mr. INOUYE:

S. 1039. A bill for the relief of the State of Hawaii; to the Committee on Finance.

By Mr. SHELBY:

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

By Mr. FEINGOLD:

S. 1041. A bill to establish a program for an information clearinghouse to increase public access to defibrillation in schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 1042. A bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. REID:

S. 1043. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Nevada; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, and Ms. MIKULSKI):

S. 1044. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER , and Mr. ALLEN):

S. 1045. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to revise and enhance authorities, and to authorize appropriations, for the Chesapeake Bay Office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 1046. A bill to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. 1047. A bill to amend the Internal Revenue Code of 1986 to provide for nonrecognition of gain on dispositions of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, and for other purposes; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. VOINOVICH, Mr. BREAUX, Mr. CONRAD, Mr. LUGAR, Mr. SANTORUM, Ms. LANDRIEU, and Mr. HATCH):

S. 1048. A bill to amend the Internal Revenue Code of 1986 to provide relief for payment of asbestos-related claims; to the Committee on Finance.

By Mr. TORRICELLI:

S. 1049. A bill to provide for an election to exchange research-related tax benefits for a refundable tax credit, for the recapture of refunds in certain circumstances, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. FITZGERALD, and Mr. VOINOVICH):

S. 1050. A bill to protect infants who are born alive; to the Committee on the Judiciary.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1051. A bill to expand the boundary of the Booker T. Washington National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself, Mr. EDWARDS, and Mr. KENNEDY):

S. 1052. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; read the first time.

By Mr. HARKIN (for himself, Mr. AKAKA, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. REID, Mr. DOMENICI, Mr. KYL, Mr. BAYH, Mr. INOUYE, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 1053. A bill to reauthorize and amend the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. REID):

S. 1054. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1055. A bill to require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information, and for other purposes; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Ms. LANDRIEU, and Mr. SCHUMER):

S. 1056. A bill to authorize grants for community telecommunications infrastructure planning, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1057. A bill to authorize the addition of lands to Pu'uhonua o Honaunau National Historical Park in the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

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. 110. A resolution relating to the retirement of Sharon Zelaska Assistant Secretary of the Senate; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 111. A resolution commending Robert ''Bob'' Dove on his service to the Senate; considered and agreed to.

By Mr. ALLARD (for himself, Mrs. HUTCHISON, Mr. HAGEL, Mr. CLELAND, Mr. BOND, Mr. INHOFE, Mr. HUTCHINSON, Mr. JEFFORDS, Mr. ROBERTS, Mr. REED, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. LEVIN, Ms. COLLINS, Mr. BUNNING, Mr. DAYTON, Mr. KENNEDY, Mr. MCCAIN, Mr. ALLEN, Mr. THURMOND, Mr. SANTORUM, Mr. SESSIONS, Ms. LANDRIEU, and Mr. DURBIN):

S. Res. 112. A resolution honoring the United States Army on its 226th birthday; considered and agreed to.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. Con. Res. 49. A concurrent resolution urging the return of portraits painted by Dina Babbitt during her internment at Auschwitz that are now in the possession of the Auschwitz-Birkenau State Museum; to the Committee on Foreign Relations.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Con. Res. 50. A concurrent resolution recognizing the important contributions that local governments make to sustainable development and ensuring a viable future for our planet; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 278

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

S. 530

At the request of Mr. GRASSLEY, the names of the Senator from Oregon (Mr.

WYDEN), the Senator from Hawaii (Mr. AKAKA), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Illinois (Mr. DURBIN), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind.

S. 532

At the request of Mr. DORGAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 532, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 570

At the request of Mr. BIDEN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 590

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 590, a bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs, and for other purposes.

S. 627

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 670

At the request of Mr. DASCHLE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 670, a bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply and to increase production and use of ethanol, and for other purposes.

S. 677

At the request of Mr. HATCH, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 678

At the request of Mr. BOND, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 678, a bill to amend the Federal Water Pollution Control Act to establish a program for fisheries habitat protection, restoration, and enhancement, and for other purposes.

S. 756

At the request of Mr. GRASSLEY, the names of the Senator from Idaho (Mr. CRAPO), the Senator from California (Mrs. FEINSTEIN), and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 756, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from biomass, and for other purposes.

S. 860

At the request of Mr. GRASSLEY, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. FITZGERALD), the Senator from Maine (Ms. SNOWE), the Senator from Michigan (Ms. STABENOW), the Senator from Mississippi (Mr. COCHRAN), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 887

At the request of Mr. WELLSTONE, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 887, a bill to amend the Torture Victims Relief Act of 1986 to authorize appropriations to provide assistance for domestic centers and programs for the treatment of victims of torture.

S. 908

At the request of Mr. BROWNBACK, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 908, a bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1003

At the request of Mr. JEFFORDS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1003, a bill to ensure the safety of children placed in child care centers in Federal facilities, and for other purposes.

S. 1004

At the request of Mr. JEFFORDS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1004, a bill to provide for the construction and renovation of child care facilities, and for other purposes.

S. 1019

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1019, a bill to provide for monitoring of aircraft air quality, to require air carriers to produce certain mechanical and maintenance records, and for other purposes.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Maryland (Mr. SARBANES), the Senator from California (Mrs. FEINSTEIN), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

AMENDMENT NO. 516

At the request of Mr. WELLSTONE, his name was added as a cosponsor of amendment No. 516.

At the request of Mrs. CLINTON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of amendment No. 516, supra.

AMENDMENT NO. 604

At the request of Mr. SESSIONS, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Missouri (Mr. BOND), and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of amendment No. 604.

AMENDMENT NO. 648

At the request of Mr. DOMENICI, his name was added as a cosponsor of amendment No. 648.

At the request of Mr. HELMS, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of amendment No. 648, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mr. INOUYE, Mr. HUTCHINSON, and Mr. STEVENS):

S. 1037. A bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes; to the Committee on Armed Services.

Mrs. HUTCHISON. Mr. President, I am pleased to be joined by Senator INOUYE and Senator HUTCHINSON to offer legislation on a very important issue for those military men and women who serve our country every day. Our current military retirement

system, I have come to understand, has a serious flaw on it.

We often memorialize those soldiers, sailors, and airmen who died in combat, but too often we forget that service men and women die frequently during daily operations or while training. In the past five years, 2,206 military families lost their spouse, father or mother while serving their country. In just the past year we have mourned the loss of the sailors on the USS *Cole*, Air Force pilots in Scotland, and soldiers in helicopter crashes in Hawaii, and Vietnam. What is not fully understood is that their families do not receive their full retirement pensions in many cases. Because service members are not vested in their retirement system until the day they retire active duty personnel do not qualify for a retirement pension unless the services medically retire them before death. This has caused hardships to families and necessitated extraordinary efforts by commanders and medical and manpower personnel.

Most Americans, and even many in uniform, do not understand that this affects those with one year of service as well as those with thirty. If these military members were in the Federal service system, or a policeman in Arizona, their family would be able to receive part of their pension. This bill will correct that inequity by amending Sections 1222 and 1448 of Title 10 U.S.C. and allowing members of the armed forces on active duty who die while serving in the line of duty to be posthumously retired. In addition, the bill would allow the services to ensure the family is given the best choice of benefits based on their individual situation. This is the least we can do when they make the ultimate sacrifice for their country.

Though we have not been involved in a major conflict in more than ten years, every day we deploy our military to many more places than we did just a decade ago. The day-to-day activities of our armed forces are inherently dangerous. If we are going to maintain and recruit a quality force, we must reassure those who serve that we are going to provide for their family. I believe that Brigadier General William Caldwell, Assistant Division Commander of the 25th Infantry Division, said it best, ''Everything we do is complex.'' BG Caldwell made this comment after the crash of two helicopters in Hawaii that killed six members of the 25th Infantry Division. That sums up the situation perfectly.

This bill will be a step in the right direction and is a way to help repay our debt to our military and their families. Not only is it the right thing and fair thing to do, but during these times of increased deployments and personnel shortages, it is in our national interest to continue to show our dedicated service members that we appreciate their sacrifice and commitment.

I commend the Senator from Hawaii for his support on this issue and urge other Senators to join us in this effort.

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. 1037

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

SECTION 1. POSTHUMOUS DISABILITY RETIREMENT FOR MEMBERS OF THE ARMED FORCES WHO DIE IN THE LINE OF DUTY WHILE ON ACTIVE DUTY.

(a) AUTHORITY.—Chapter 61 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1222. Posthumous retirement: retroactive effective date; related elections

''(a) AUTHORITY.—Upon a determination by the Secretary concerned that it is advantageous for the survivors of a member of the armed forces who dies in the line of duty while on active duty, the Secretary concerned may—

''(1) posthumously retire the member under section 1201 of this title effective immediately before the member's death; and

''(2) make for the deceased member any election with respect to survivor benefits under laws referred to in subsection (c) that the deceased member would have been entitled to make upon being retired under that section.

''(b) CONSTRUCTION WITH SECTION 1201 REQUIREMENTS.—Nothing in this section modifies the requirements set forth in section 1201 of this title regarding determinations or eligibility.

''(c) ADMINISTRATION OF BENEFITS LAWS.—A retirement and election under subsection (a) shall be effective for the purposes of laws administered by the Secretary of Defense or any Secretary concerned and laws administered by the Secretary of Veterans Affairs.

''(d) NONREVIEWABILITY OF DETERMINATIONS.—A determination or election made by a Secretary concerned under subsection (a) is not subject to judicial review.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1222. Posthumous retirement: retroactive effective date; related elections.''.

SEC. 2. SURVIVOR BENEFIT PLAN.

(a) SURVIVING SPOUSE ANNUITY.—Section 1448(d) of title 10, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a member who—

''(A) dies in the line of duty while on active duty after—

''(i) becoming eligible to receive retired pay;

''(ii) qualifying for retired pay except that the member has not applied for or been granted that pay; or

''(iii) completing 20 years of active service but before the member is eligible to retire as a commissioned officer because the member has not completed 10 years of active commissioned service; or

''(B) dies in the line of duty while on active duty and is posthumously retired under section 1201 of this title pursuant to section 1222 of this title.''.

(b) DEPENDENT CHILD ANNUITY.—Paragraph (2) of such section is amended by striking ''or if the member's surviving spouse subsequently dies'' and inserting ''or if the payment of an annuity to the member's surviving spouse under that paragraph subsequently terminates''.

(c) COMPUTATION OF SURVIVOR ANNUITY.—Section 1451(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5) SERVICE MEMBERS POSTHUMOUSLY RETIRED.—In the case of an annuity provided under section 1448(d)(1)(B) of this title, the retired pay to which the member would have been entitled when the member died shall be determined for purposes of paragraph (1) based upon the retired pay base computed for the member under section 1406(b) or 1407 of this title as if the member had been retired under section 1201 of this title on the date of the member's death.''.

(d) CONFORMING AMENDMENT.—Section 1451(c)(3) of such title is amended by striking ''section 1448(d)(1)(B) or 1448(d)(1)(C)'' and inserting ''clause (ii) or (iii) of section 1448(d)(1)(A)''.

SEC. 3. EFFECT DATE AND APPLICABILITY.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply with respect to deaths of members of the Armed Forces occurring on or after that date.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 1038. A bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions; to the Committee on Finance.

Mr. JEFFORDS. Mr. President, today I am introducing the Health and Higher Education Facilities Improvement Act of 2001. This legislation will help small non-profit health and educational institutions more effectively finance the cost of essential services, and lead to new facility construction. By modifying the laws that restrict deductibility or ''bank financing for small non-profit organizations that need it the most: small local hospitals and colleges.

The Tax Reform Act of 1986 unintentionally discriminated against small non-profit educational and health care facilities that want to sell small amounts of tax-exempt debt to community banks. Before 1986, banks and financial institutions could deduct the interest incurred to carry tax-exempt bonds. This allowed banks to purchase tax-exempt bonds at attractive rates. The 1986 tax act repealed bank deductibility, but an exception was retained for small governmental issuers that issue bonds of $10 million or less each year.

This exception was designed to preserve bank deductibility for small local governments, but does not help small non-profit institutions. The small issuer exception to be of little value in many States, like Vermont where statewide health care and higher education bond issuing authorities typically issue many millions of dollars of debt each year. The legislation I am introducing today will modify the small issuer exception by granting bond issuers the right to apply the small issuer exception at the level of the ultimate beneficiary of the funding. Consequently, a small college or health

care facility borrowing less than $10 million in tax-exempt debt in any one year could elect tax-exempt status for that debt, even if it is issued by a statewide authority. This would make the debt more attractive to local banks, and could result in significant savings for beneficiary institutions over the life of the bond.

The Health and Higher Education Facilities Improvement Act of 2001 focuses the benefit of the small issuer exemption on smaller non-profits, without regard to whether the bond issuer is a government entity issuing more than $10 million in bonds per year. Small non-profits are important community institutions; they stand to benefit from greater access to tax-exempt debt. Wall Street and large money center banks may have little interest in small amounts of debt from small institutions. The bank across the street from a local college or health care clinic, however, may have greater confidence and insight into the community value of the institution. This bill would allow those banks to carry tax-exempt debt at attractive rates and maintain commitments to the people and institutions in their local communities.

I urge my colleagues to support this bill.

By Mr. SHELBY:

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

Mr. SHELBY. Mr. President, Congress recently passed a tax bill that provides much-needed relief for all Americans. While I am pleased that the tax bill included marriage penalty relief, a reduction in marginal rates and a phase out of the estate tax, these changes unfortunately increase the tax code's complexity. Furthermore, despite the positive changes made this year, the current code still retains the alternative minimum tax, the taxation of Social Security benefits, and marginal rates that increase with income.

I rise today to introduce legislation that takes tax reform to the next level and addresses the fundamental problems of the current code. My bill accomplishes this by repealing the current Internal Revenue Code and replacing it with a flat tax, where all taxpayers pay the same rate.

As with current law, not all wage earners will pay a Federal income tax under a flat tax. In order to assist lower income Americans, I have included large standard deductions. For example, a family of four would need to make more than $35,200 before paying a single penny in taxes.

Some argue that it's fair to tax wealthier people at higher rates. I believe that nothing can be further from the truth. Not only is this type of tax policy fundamentally unfair, it also prevents our economy from realizing its full potential.

A flat tax does not mean that a school teacher will have the same tax liability as Bill Gates. The principles of math dictate that people who make more will still pay more in taxes with a single rate. The difference is that with a flat tax those who earn more will no longer be penalized by rising marginal rates.

My bill also increases tax fairness by eliminating itemized deductions and credits. While these tax breaks benefit those who are lucky enough to claim them, they consequently hurt the taxpayers who are not. As a result, people with the same yearly salaries can pay very different Federal income taxes depending on whether they have children, they decide to own or rent a home, or decide to finance a family vacation through a credit card or a home equity loan.

Over time the tax code has evolved from a way to collect Federal revenue into a way to encourage and reward behavior the government deems important. I believe that the American people are intelligent enough that they do not need the Federal Government dangling a carrot in front of them when they make life decisions. Furthermore, I believe that people should not be punished for deciding to make these decisions in ways that are contrary to what the government decides is right.

Simplification is yet another reason our country needs the flat tax. The National Taxpayer Advocate cited complications in the tax code as the number one issue taxpayers faced in 2001. As the IRS publishes more and more regulations, and new tax laws are enacted, the complexity of the tax code will only grow.

The complexity of the tax code forces many Americans to seek the advice of tax professionals at the cost of many millions of dollars. No tax code should be so puzzling that the average person has to spend his hard-earned money to hire a tax preparer or an accountant. Those who decide to brave the tax code and file their own returns do not fare better. These people face conflicting IRS advice and many hours of completing confusing tax forms. All of these needless hassles results in taxpayer frustration and apathy and less time spent on more productive endeavors.

Under the flat tax, a taxpayers would be able to be quickly and accurately file their returns. There would be no itemized deductions or credits to calculate, no capital gains tabulations and no alternative minimum tax. With this new simplicity, taxpayers would be able to complete their personal income tax return in virtually no time at all compared to the 13 hours the IRS estimates it takes to complete a 1040 form.

I understand that my bill is a major change from the current tax code. Many people have become complacent with the status quo. Still others enjoy using the tax to implement social policy. I on the other hand believe though that a tax code should have one purpose and that is to collect revenue.

I hope that my colleagues will begin to seriously look at alternatives to the current code. The legislation I have introduced today is an excellent opportunity to bring this debate to the floor of the Senate. The combination of freedom, simplicity and fairness make the flat tax the ultimate goal of true tax reform. I urge my colleagues to join me in support of meaningful and comprehensive tax reform.

By Mr. FEINGOLD:

S. 1041. A bill to establish a program for an information clearinghouse to increase public access to defibrillation in schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today with my colleague from Maine, Senator COLLINS, to introduce the Automatic Defibrillators in Adam's Memory Act, or the ADAM Act, which would help schools across America implement public access defibrillation programs.

I am especially proud that the concept of this legislation came from my home state of Wisconsin, where a similar program has saved the lives of a number of students.

Heart disease is not only a problem among adults. I recently learned the story of Adam Lemel, a 17-year-old high school student and a star basketball and tennis player in southeastern Wisconsin. Tragically, during a timeout while playing basketball at a neighboring Milwaukee high school, Adam suffered sudden cardiac arrest, and died before the paramedics arrived.

The following November, a Milwaukee Technical High School football player died of Sudden Cardiac Arrest while playing basketball with his friends. And in April 2000, two more Milwaukee-area deaths were attributed to sudden cardiac arrest: a Marquette University senior and a visiting 12-year old from Illinois who was playing basketball.

These stories are incredibly tragic. These young people had their whole lives before them, and could have been saved. In fact, we have seen a number of examples in Wisconsin where early CPR and access to defibrillation have saved lives.

Seventy miles away from Milwaukee, a 14-year-old boy, collapsed while playing basketball. Within three minutes, the emergency team arrived and began CPR. Within five minutes of his collapse, the paramedics used an automated external defibrillator to jump start his heart. Not only has this young man survived, they have identified his father and brother to have the same heart condition. To prevent cardiac deaths, internal defibrillators were implanted in both men.

I also recently met Heather Rahn who on March 19, was at a church concert in the gymnasium of Good Hope Christian Academy. She told her friends that her heart was racing, and

she felt nervous. In the middle of running across the gym, she collapsed on the ground from cardiac arrest. She was down for about three and a half minutes when an ambulance arrived, bringing a defibrillator that would save her life. It took two shocks to bring her back.

These tragic stories help to underscore three issues. First, although cardiac arrest is most common among adults, it can occur at any age, even in apparently healthy children and adolescents. Second, early intervention is essential, a combination of CPR and use of AEDs can save lives. Third, some individuals who are at risk for sudden cardiac arrest, can be identified to prevent cardiac arrest.

After Adam Lemel tragically suffered his cardiac arrest two years ago, his friend David Ellis joined forces with Children's Hospital of Wisconsin to initiate Project ADAM to: bring CPR training and public access defibrillation into schools, educate communities about preventing sudden cardiac deaths, and save lives.

Today, Project ADAM has introduced AEDs into several Wisconsin schools, and has been a model for programs in Washington, Florida, Michigan and elsewhere.

I had the chance to visit with Dave Ellis, Adam's parents, and the dedicated people at Children's Hospital of Wisconsin, especially Karen Bauer and Dr. Stu Berger. And let me tell you, there are no better advocates for saving the lives of cardiac arrest victims. I want to commend them for their service, and efforts to save the lives of sudden cardiac arrest victims.

I strongly believe that the Federal Government should support local efforts to equip more people in our communities, including younger generations, with the necessary skills to deal with life-threatening emergencies like cardiac arrest. And there is no better way to support local efforts than by following the lead of a successful local effort such as Project ADAM.

Over two hundred twenty thousand Americans die each year of sudden cardiac arrest, including between 5000 and 7000 children. About 50,000 of these victims lives could be saved each year if more people implemented the ''Chain of Survival,'' which includes an immediate call to 911, early CPR and defibrillation, and early advanced life support.

According to the Centers for Disease Control, the number of sudden cardiac deaths of people between the ages of 15 and 34 years old has increased over 10 percent in the past 10 years. The research also shows that sudden cardiac death has increased by 30 percent in young women.

Without any training, kids would never know what to do in the face of such an emergency.

As a matter of fact, many adults wouldn't know what to do either. That lack of knowledge is a break in the chain of survival, but that break can be repaired through the right training. A number of localities have pushed for increased CPR training and public access to defibrillation in schools.

The ADAM Act will help strengthen the Chain by establishing a national Project ADAM resource center. The center would provide schools with information to help them implement public access defibrillation programs.

The ADAM Center would also provide support to CPR and AED training programs, and help foster new community partnerships among public and private organizations to promote public access to defibrillation in schools.

Finally, the ADAM Act would create a way to track cardiac arrest among children and to conduct further research into this serious health threat.

This clearinghouse responds to the growing number of schools that have the desire to set up a public access defibrillation program, but often don't know where to start.

If the ADAM Act becomes law, schools across the country will have a place to turn as they work to establish public access to defibrillation programs in more schools across America. The Project ADAM resource center will help schools give victims of cardiac arrest a fighting chance.

By Mr. INOUYE:

S. 1042. A bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, I rise to introduce the Filipino Veterans' Benefits Improvement Act of 2001. This bill provides our country the opportunity to right a wrong committed decades ago, by providing Philippine-born veterans of World War II who served in the United States Armed Forces their hard-earned, due compensation.

Our Nation is now at peace, and our prosperity has reached levels never before seen by any Nation in history. We are on the top of the world in terms of economic power and military might, and much of this unprecedented success is due to the tremendous sacrifices made by our fighting forces during World War II. We trampled tyranny in Europe and in the Pacific, and when we raised our flag proudly over hostile lands, we were greeted enthusiastically by the millions we liberated from the grasp of terrible aggression.

I take this opportunity today to remind everyone of an injustice that persists as a blemish on one of history's greatest success stories.

The Philippines became a United States possession in 1898, when it was ceded from Spain following the Spanish-American War. In 1934, the Congress enacted the Philippine Independence Act, Public Law 73–127, which provided a 10-year time frame for the independence of the Philippines. Between 1934 and final independence in 1946, the United States retained certain powers over the Philippines, including the right to call all military forces organized by the newly-formed Commonwealth government into the service of the United States Armed Forces.

On July 26, 1941, President Roosevelt issued an Executive Order calling members of the Philippine Commonwealth Army into the service of the United States Armed Forces of the Far East. Under this order, Filipinos were entitled to full veterans' benefits. More than 100,000 Filipinos volunteered for the Philippine Commonwealth Army and fought alongside the United States Armed Forces.

The United States Armed Forces of the Far East fought to reclaim control of the entire Western Pacific. Filipinos, under the command of General Douglas MacArthur, fought in the front lines of the Battle of Corregidor and at Bataan. They served in Okinawa, on occupied mainland Japan, and in Guam. They were part of what became known as the Bataan Death March, and were held and tortured as prisoners of war. Through these hardships, the men of the Philippine Commonwealth Army remained loyal to the United States during the Japanese occupation of the Philippines, and the valiant guerilla war they waged against the Japanese helped to delay the Japanese advance across the Pacific.

Despite all of their sacrifices, on February 18, 1946, Congress betrayed these veterans by enacting the Rescission Act of 1946 and declaring the service performed by the Philippine Commonwealth Army veterans as not ''active service,'' thus denying many benefits to which these veterans were entitled.

Then, shortly after Japan's surrender, Congress enacted the Armed Forces Voluntary Recruitment Act of 1945 for the purpose of sending American troops to occupy enemy lands, and to oversee military installations at various overseas locations. A provision included in the Recruitment Act called for the enlistment of Philippine citizens to constitute a new body of Philippine Scouts. The New Scouts were authorized to receive pay and allowances for services performed throughout the Western Pacific. Although hostilities had ceased, wartime service of the New Philippine Scouts continued as a matter of law until the end of 1946.

On May 27, 1946, the Congress enacted the Second Supplemental Surplus Appropriation Rescission Act, which included a provision to limit veterans' benefits to Filipinos. This provision duplicated the language that had eliminated veterans' benefits under the First Rescission Act, and placed similar restrictions on veterans of the New Philippine Scouts. Thus, the Filipino veterans that fought in the service of the United States during World War II have been precluded from receiving most veterans' benefits that had been available to them before 1946, and that are available to all other veterans of our armed forces regardless of race, national origin, or citizenship status.

The Congress tried to rectify the wrong committed against the Filipino veterans of World War II by amending the Nationality Act of 1940 to grant the veterans the privilege of becoming United States citizens for having served in the United States Armed Forces of the Far East.

The law expired at the end of 1946, but not before the United States had withdrawn its sole naturalization examiner from the Philippines for a nine-month period. This effectively denied Filipino veterans the opportunity to become citizens during this nine-month window. Forty-five years later, under the Immigration Act of 1990, certain Filipino veterans who served during World War II became eligible for United States citizenship. Between November, 1990, and February, 1995, approximately 24,000 veterans took advantage of this opportunity and became United States citizens.

For many years, Filipino veterans of World War II, who are now in their twilight years, have sought to correct the injustice caused by the Rescission Acts by seeking equal treatment of their valiant military service in our Armed Forces. They stood up to the same aggression that American-born soldiers did, and many Filipinos sacrificed their lives in the war for democracy and liberty.

Heroes should never be forgotten or ignored, so let us not turn our backs on those who sacrificed so much. Many of the Filipinos who have fought so hard for us have been honored with American citizenship, but let us now work to repay all of these brave men for their sacrifices by providing them the full veterans' benefits they have earned.

By Mr. REID:

S. 1043. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Nevada; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I am introducing a simple bill that would extend the deadline under the Federal Power Act for the commencement of construction of the Blue Diamond hydroelectric project in southern Nevada. The bill will allow the Federal Government to extend the project permit for as many as three consecutive two-year periods. At this time, serious concerns remain about the environmental impacts of the project and where power generated at the facility would be sold. These important questions merit additional dialogue and introduction of this bill provides for further examination of this project.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, and Ms. MIKULSKI):

S. 1044. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1045. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to revise and enhance authorities, and to authorize appropriations, for the Chesapeake Bay Office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SARBANES. Mr. President, today I am introducing two measures to expand restoration and protection efforts in the Chesapeake Bay watershed. Joining me in sponsoring these measures are my colleagues Senators WARNER, ALLEN, and MIKULSKI.

Nearly two decades ago, the Bay area States and the Federal Government signed an historic agreement to work together to restore the Chesapeake Bay, our Nation's largest estuary and one of the most productive ecosystems in the world. In 1987, the Governors of Maryland, Virginia, Pennsylvania, the Chesapeake Bay Commission, the Mayor of the District of Columbia and the Administrator of the EPA, on behalf of the Federal Government, reaffirmed their commitment to that compact and agreed to 29 specific goals and action plans including the unprecedented goal of a 40 percent reduction of nitrogen and phosphorous loads to the main stem of the Bay by the year 2000. Last year, the State and the Federal Government conducted an extensive evaluation of cleanup progress since the 1980s and determined that, despite important advances, efforts must be redoubled to restore the integrity of the Chesapeake Bay ecosystem. A new Chesapeake 2000 agreement was signed to serve as a blueprint for the restoration effort over the next decade.

To meet the goals established in the new agreement, it is estimated that the local, State and Federal Governments must invest $8.5 billion over the course of the next ten years. Thousands of acres of watershed property must be preserved, buffer zones to protect rivers and streams need to be created, and pollution from all sources will have to be further reduced. While $8.5 billion seems like an enormous sum, we should remember that the health of Chesapeake is vital not only to the more than 15 million people who live in the watershed, but to the nation. The Chesapeake Bay watershed is one of our Nation's and the world's greatest natural resources covering 64,000 square miles within six States. It is a world-class fishery that still produces a significant portion of the fin fish and shellfish catch in the United States. It provides vital habitat for living resources, including more than 3600 species of plants, fish and animals. It is a major resting area for migratory waterfowls and birds along the Atlantic including many endangered and threatened species. It is also a one-of-a-kind recreational asset enjoyed by millions of people, a major commercial waterway and shipping center for much of the eastern United States, and provides jobs for thousands of people. In short, the Chesapeake Bay is a magnificent, multifaceted resource worthy of the highest levels of protection and restoration.

Over the years, human activities have profoundly impacted the Bay. Untreated sewage, deforestation, toxic chemicals, runoff and increased development have degraded the Bay's water quality and contributed to the decline of such key species as oysters and blue crabs and the underwater grasses they favor for habitat. We have lost not only thousands of jobs in the fishing industry but much of the wilderness that defined the watershed. By the year 2020, an additional three million people are expected to settle in the watershed and this growth could eclipse the nutrient reduction and habitat protection gains of the past. Not meeting the investment needs of the next 10 years risks reversing all that has been achieved over the past two decades in cleaning up the Bay.

The first measure we are introducing would establish a grant program in the Environmental Protection Agency to support the installation of nutrient reduction technologies at major wastewater treatment facilities in the Chesapeake Bay watershed. Despite important water quality improvements over the past decade, nutrient over-enrichment remains the most serious pollution problem facing the Bay. The overabundance of the nutrients nitrogen and phosphorous continues to rob the Bay of life sustaining oxygen. Recent modeling of EPA's Bay Program has found that total nutrient discharges must be reduced by more than 35 percent from current levels to restore the Chesapeake Bay and its major tributaries to health. To do so, nitrogen discharges from all sources must be reduced drastically below current levels. Annual nitrogen discharges into the Bay will need to be cut by at least 110 million pounds from the current 300 million pounds to less than 190 million pounds. Municipal wastewater treatment plants, in particular, will have to reduce nitrogen discharges by nearly 75 percent.

There are 288 major wastewater treatment plants in the Chesapeake Bay watershed: Pennsylvania, 124, Maryland, 62, Virginia, 70, New York, 18, Delaware, 3, Washington, D.C., 2, and West Virginia, 9. These plants contribute about 60 million pounds of nitrogen per year, one fifth, of the total loads of nitrogen to the Bay. Upgrading these plants with nutrient removal technologies to achieve nitrogen reductions of 3 mg/liter would remove 46 million pounds of nitrogen in the Bay each year or 40 percent of the total nitrogen reductions needed. Nutrient removal technologies have other benefits as well, they provide significant savings in energy usage, 20 to 30 percent, in chemical usage, more than 50 percent, and in the amount of sludge produced, five to 15 percent. They are one of the

most cost-effective methods of reducing nutrients discharged to the Bay.

My legislation would provide grants for 55 percent of the capital cost of upgrading all 288 plants with nutrient removal technologies capable of achieving nitrogen reductions of 3 mg/liter. The total cost of these upgrades is estimated at $1.2 billion, with a federal share of $660 million. Any publically owned wastewater treatment plant which has a permitted design capacity to threat an annual average of 0.5 million gallons per day within the Chesapeake Bay watershed portion of New York, Pennsylvania, Maryland, West Virginia, Delaware, Virginia and the District of Columbia would be eligible to receive these grants. As a signatory to the Chesapeake Bay Agreement, the EPA has an important responsibility to assist the states with financing these water infrastructure needs.

The second measure would reauthorize the National Oceanic and Atmospheric, NOAA, Chesapeake Bay Office. I first introduced a similar measure in June, 2000, but unfortunately it was not acted upon prior to the adjournment of the 106th Congress.

The NOAA Chesapeake Bay office, NCBO, was first established in 1992 pursuant to Public Law 102–567. It serves as the focal point for all of NOAA's activities within the Chesapeake Bay watershed and is a vital part of the effort to achieve the long-term goal of the Bay Program, restoring the Bay's living resources to healthy and balanced levels. During the past nine years, the NCBO has made great strides in realizing the objectives of the NOAA Authorization Act of 1992 and the overall Bay Program living resource goals. Working with other Bay Program partners, important progress has been made in surveying and assessing fishery resources in the Bay, developing fishery management plans for selected species, undertaking habitat restoration projects, removing barriers to fish passage, and undertaking important remote sensing and data analysis activities.

NOAA's responsibilities to the Bay restoration effort are far from complete, however. Some populations of major species of fish and shellfish in Chesapeake Bay such as shad and oysters, remain severely depressed, while others, such as blue crab are at risk. Bay-wide, some 16 of 25 ecologically important species are in decline or severe decline, due to disease, habitat loss, over-fishing and other factors. The underwater grasses that once sustained these fisheries are only at a fraction of their historic levels. Research and monitoring must be continued and enhanced to track living resource trends, evaluate the responses of the estuary's biota to changes in their environment and establish clear management goals and progress indicators for restoring the productivity, diversity and abundance of these species. Chesapeake 2000, the new Bay Agreement, has identified several living resource goals which will require strong NOAA involvement to achieve.

The legislation which we are introducing would provide NOAA with additional resources and authority necessary to ensure its continued full participation in the Bay's restoration and in meeting with goals and objectives of Chesapeake 2000. First, the legislation authorizes and directs NOAA to undertake a special five-year study, in cooperation with the scientific community of the Chesapeake Bay and appropriate other federal agencies, to develop the knowledge base required for understanding multi-species interactions and developing multi-species management plans. To date, fisheries management in Chesapeake Bay and other waters, has been largely based upon single-species plans that often ignore the critical relationships between water and habitat quality, ecosystem health and the food webs that support the Bay's living resources. There is a growing consensus between scientific leaders and managers alike that we must move beyond the one-species-at-a-time approach toward a wider, multi-species and ecosystem perspective. Chesapeake 2000 calls for developing multi-species management plans for targeted species by the year 2005 and implementing the plans by 2007. In order to achieve these goals, NOAA must take a leadership role and support a sustained research and monitoring program.

Second, the legislation authorizes NOAA to carry out a small-scale fishery and habitat restoration grant and technical assistance program to help citizens organizations and local governments in the Chesapeake Bay watershed undertake habitat, fish and shellfish restoration projects. Experience has shown that, with the proper tools and training, citizens' groups and local communities can play a tremendous role in fisheries and habitat protection and restoration efforts. The Chesapeake Bay Foundation's oyster gardening program, for example, has proven to be highly successful in training citizens to grow oysters at their docks to help restore oysters' populations in the Bay. The new Bay Agreement has identified a critical need to not only to expand and promote community-based programs but to restore historic levels of oyster production, restore living resource habitat and submerged aquatic vegetation. The NOAA small-grants program, which this bill would authorize, would complement EPA's Chesapeake Bay small watershed program, and make ''seed'' grants available on a competitive, cost-sharing basis to local governments and nonprofit organizations to implement hands-on projects such as improvement of fish passageways, creating artificial or natural reefs, restoring wetlands and seagrass beds, and producing oysters for restoration projects.

Third, the legislation would establish an internet-based Coastal Predictions Center for the Chesapeake Bay. Resource managers and scientists alike agree that we must make better use of the various modeling and monitoring systems and new technologies to improve prediction capabilities and response to physical and chemical events within the Bay and tributary rivers. There are substantial amounts of data collected and compiled by Federal, state and local government agencies and academic institutions including information on weather, tides, currents, circulation, climate, land use, coastal environmental quality, aquatic living resources and habitat conditions. Unfortunately, little of this data is coordinated and organized in a manner that is useful to the wide range of potential users. The Coastal Predictions Center would serve as a knowledge bank for assembling monitoring and modeling data from relevant government agencies and academic institutions, interpreting that data, and organizing it into products that are useful to resource managers, scientists and the public.

Finally, the legislation would direct NOAA to implement an education program targeted toward the 3 million pupils in kindergarten through 12th grade in the Chesapeake Bay watershed. One of the key goals of the Chesapeake 2000 Agreement is to expand education and public awareness of the Bay and local watersheds. Among other activities, the Agreement calls for providing meaningful Bay or stream outdoor experiences for every school student in the watershed before graduation from high school, incorporating the Chesapeake Bay watershed into school curricula, and providing students and teachers alike with information to increase awareness of Bay living resource and other issues. Our legislation would enable NOAA to enter into partnerships with non-profit environmental organizations in the region experienced in conducting environmental education programs, the Chesapeake Bay Foundation and the Living Classrooms Foundation, for example, and to expand opportunities for students and teachers to participate in Bay and other field and classroom learning experiences which support Chesapeake Bay restoration and protection efforts.

The legislation increases the authorization for the NOAA Bay Program from the current level of $2.5 million to $8.5 million per year to enhance current activities and to carry out these new initiatives. For more than a decade, funding for NOAA's Bay Program has remained static at an annual average of $1.9 million. If we are to achieve the ultimate, long-term goal of the Bay Program, protecting, restoring and maintaining the health of the living resources of the Bay, additional financial resources must be provided.

These two measures would provide an important boost to our efforts to save the Chesapeake Bay. They are strongly supported by the Chesapeake Bay Commission, the Chesapeake Bay Foundation, and other organizations in the

watershed. I ask unanimous consent that the full text of the measures and supporting letters be printed in the RECORD. I urge my colleagues to join with us in supporting the two measures and continue the momentum contributing to the improvement and enhancement of our Nation's most valuable and treasured natural resource.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

S. 1044

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 ''Chesapeake Bay Watershed Nutrient Removal Assistance Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) nutrient pollution from point sources and nonpoint sources continues to be the most significant water quality problem in the Chesapeake Bay watershed;

(2) a key commitment of the Chesapeake 2000 agreement, an interstate agreement among the Administrator, the Chesapeake Bay Commission, the District of Columbia, and the States of Maryland, Virginia, and Pennsylvania, is to achieve the goal of correcting the nutrient-related problems in the Chesapeake Bay by 2010;

(3) by correcting those problems, the Chesapeake Bay and its tidal tributaries may be removed from the list of impaired bodies of water designated by the Administrator of the Environmental Protection Agency under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d));

(4) nearly 300 major sewage treatment plants located in the Chesapeake Bay watershed annually discharge approximately 60,000,000 pounds of nitrogen, or the equivalent of 20 percent of the total nitrogen load, into the Chesapeake Bay; and

(5) nutrient removal technology is 1 of the most reliable, cost-effective, and direct methods for reducing the flow of nitrogen from point sources into the Chesapeake Bay.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the Administrator of the Environmental Protection Agency to provide financial assistance to States and municipalities for use in upgrading publicly-owned wastewater treatment plants in the Chesapeake Bay watershed with nutrient removal technologies; and

(2) to further the goal of restoring the water quality of the Chesapeake Bay to conditions that are protective of human health and aquatic living resources.

SEC. 3. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

"TITLE VII—MISCELLANEOUS

"SEC. 701. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

''(a) DEFINITION OF ELIGIBLE FACILITY.—In this section, the term 'eligible facility' means a municipal wastewater treatment plant that—

''(1) as of the date of enactment of this title, has a permitted design capacity to treat an annual average of at least 500,000 gallons of wastewater per day; and

''(2) is located within the Chesapeake Bay watershed in any of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, or West Virginia or in the District of Columbia.

''(b) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this title, the Administrator shall establish a program within the Environmental Protection Agency to provide grants to States and municipalities to upgrade eligible facilities with nutrient removal technologies.

''(2) PRIORITY.—In providing a grant under paragraph (1), the Administrator shall—

''(A) consult with the Chesapeake Bay Program Office;

''(B) give priority to eligible facilities at which nutrient removal upgrades would—

''(i) produce the greatest nutrient load reductions at points of discharge; or

''(ii) result in the greatest environmental benefits to local bodies of water surrounding, and the main stem of, the Chesapeake Bay; and

''(iii) take into consideration the geographic distribution of the grants.

''(3) APPLICATION.—

''(A) IN GENERAL.—On receipt of an application from a State or municipality for a grant under this section, if the Administrator approves the request, the Administrator shall transfer to the State or municipality the amount of assistance requested.

''(B) FORM.—An application submitted by a State or municipality under subparagraph (A) shall be in such form and shall include such information as the Administrator may prescribe.

''(4) USE OF FUNDS.—A State or municipality that receives a grant under this section shall use the grant to upgrade eligible facilities with nutrient removal technologies that are designed to reduce total nitrogen in discharged wastewater to an average annual concentration of 3 milligrams per liter.

''(5) COST SHARING.—

''(A) FEDERAL SHARE.—The Federal share of the cost of upgrading any eligible facility as described in paragraph (1) using funds provided under this section shall not exceed 55 percent.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of upgrading any eligible facility as described in paragraph (1) using funds provided under this section may be provided in the form of funds made available to a State or municipality under—

''(i) any provision of this Act other than this section (including funds made available from a State revolving fund established under title VI); or

''(ii) any other Federal or State law.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $132,000,000 for each of fiscal years 2003 through 2007, to remain available until expended.

''(2) ADMINISTRATIVE COSTS.—The Administrator may use not to exceed 4 percent of any amount made available under paragraph (1) to pay administrative costs incurred in carrying out this section.''.

S. 1045

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 ''NOAA Chesapeake Bay Office Reauthorization Act of 2001''.

SEC. 2. CHESAPEAKE BAY OFFICE.

(a) ESTABLISHMENT.—Section 307(a) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(a)) is amended—

(1) in paragraph (1), by striking ''Estuarine Resources''; and

(2) by amending paragraph (2) to read as follows:

''(2) The Secretary of Commerce shall appoint as Director of the Office an individual who has knowledge of and experience in research or resource management efforts in the Chesapeake Bay.''.

(b) FUNCTIONS.—

(1) Section 307(b)(3) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)(3)) is amended to read as follows:

''(3) facilitate coordination of the programs and activities of the various organizations and facilities within the National Oceanic and Atmospheric Administration, the Chesapeake Bay units of the National Estuarine Research Reserve System, the Chesapeake Bay Regional Sea Grant Programs, and the Cooperative Oxford Lab, including—

''(A) programs and activities in—

''(i) coastal and estuarine research, monitoring, and assessment;

''(ii) fisheries research and stock assessments;

''(iii) data management;

''(iv) remote sensing;

''(v) coastal management;

''(vi) habitat conservation and restoration; and

''(vii) atmospheric deposition; and

''(B) programs and activities of the Cooperative Oxford Laboratory of the National Ocean Service with respect to—

''(i) nonindigenous species;

''(ii) marine species pathology;

''(iii) human pathogens in marine environments; and

''(iv) ecosystems health;''.

(2) Section 307(b)(7) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)(7)) is amended by striking the period at the end and inserting the following: '', which report shall include an action plan consisting of—

''(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

''(B) proposals for—

''(i) continuing and new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

''(ii) the integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.''.

(c) CONFORMING AMENDMENT.—Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended by striking the section heading and inserting the following:

"SEC. 307. CHESAPEAKE BAY OFFICE.".

SEC. 3. MULTIPLE SPECIES MANAGEMENT STRATEGY; CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL GRANTS PROGRAM; COASTAL PREDICTION CENTER.

The National Oceanic and Atmospheric Administration Authorization Act of 1992 is amended by inserting after section 307 (15 U.S.C. 1511d) the following:

"SEC. 307A. MULTIPLE SPECIES MANAGEMENT STRATEGY.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration shall commence a 5-year study, in cooperation with the scientific community of the Chesapeake Bay and appropriate Federal agencies—

''(1) to determine and expand the understanding of the role and response of living resources in the Chesapeake Bay ecosystem; and

''(2) to develop a multiple species management strategy for the Chesapeake Bay.

''(b) REQUIRED ELEMENTS OF STUDY.—In order to improve the understanding necessary for the development of the strategy under subsection (a), the study shall—

''(1) determine the current status and trends of fish and shellfish that live in the Chesapeake Bay estuary and are selected for study;

''(2) evaluate and assess interactions among the fish and shellfish described in paragraph (1) and other living resources, with particular attention to the impact of changes within and among trophic levels; and

''(3) recommend management actions to optimize the return of a healthy and balanced ecosystem for the Chesapeake Bay.

''SEC. 307B. CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL GRANTS PROGRAM.

''(a) IN GENERAL.—The Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (referred to in this section as the 'Director'), in cooperation with the Chesapeake Executive Council (as defined in section 307(e)), shall carry out a community-based fishery and habitat restoration small grants and technical assistance program in the Chesapeake Bay watershed.

''(b) PROJECTS.—

''(1) SUPPORT.—The Director shall make grants under the program under subsection (a) to pay the Federal share of the cost of projects that are carried out by eligible entities described in subsection (c) for the restoration of fisheries and habitats in the Chesapeake Bay.

''(2) FEDERAL SHARE.—The Federal share of the cost of a project under paragraph (1) shall not exceed 75 percent of the total cost of that project.

''(3) TYPES OF PROJECTS.—Projects for which grants may be made under the program include—

''(A) the improvement of fish passageways;

''(B) the creation of natural or artificial reefs or substrata for habitats;

''(C) the restoration of wetland or sea grass;

''(D) the production of oysters for restoration projects; and

''(E) the identification and characterization of contaminated habitats, and the development of restoration plans for those habitats in the Chesapeake Bay watershed.

''(c) ELIGIBLE ENTITIES.—The following entities are eligible to receive grants under the program under this section:

''(1) The government of a political subdivision of a State in the Chesapeake Bay watershed and the Government of the District of Columbia.

''(2) An organization in the Chesapeake Bay watershed (such as an educational institution or a community organization) that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of the Code.

''(d) ADDITIONAL REQUIREMENTS.—The Director may prescribe any additional requirements, including procedures, that the Director considers necessary to carry out the program under this section.

''SEC. 307C. COASTAL PREDICTION CENTER.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (referred to in this section as the 'Director'), in collaboration with regional scientific institutions, shall establish a coastal prediction center for the Chesapeake Bay (referred to in this section as the 'center').

''(2) PURPOSE OF CENTER.—The center shall serve as a knowledge bank for—

''(A) assembling, integrating, and modeling coastal information and data from appropriate government agencies and scientific institutions;

''(B) interpreting the data; and

''(C) organizing the data into predictive products that are useful to policy makers, resource managers, scientists, and the public.

''(b) ACTIVITIES.—

''(1) INFORMATION AND PREDICTION SYSTEM.—The center shall develop an Internet-based information system for integrating, interpreting, and disseminating coastal information and predictions concerning—

''(A) climate;

''(B) land use;

''(C) coastal pollution;

''(D) coastal environmental quality;

''(E) ecosystem health and performance;

''(F) aquatic living resources and habitat conditions; and

''(G) weather, tides, currents, and circulation that affect the distribution of sediments, nutrients, and organisms, coastline erosion, and related physical and chemical events within the Chesapeake Bay and the tributaries of the Chesapeake Bay.

''(2) AGREEMENTS TO PROVIDE DATA, INFORMATION, AND SUPPORT.—The Director may enter into agreements with other entities of the National Oceanic and Atmospheric Administration, other appropriate Federal, State, and local government agencies, and academic institutions, to provide and interpret data and information, and provide appropriate support, relating to the activities of the center.

''(3) AGREEMENTS RELATING TO INFORMATION PRODUCTS.—The Director may enter into grants, contracts, and interagency agreements with eligible entities for the collection, processing, analysis, interpretation, and electronic publication of information products for the center.''.

SEC. 4. ENVIRONMENTAL EDUCATION.

The National Oceanic and Atmospheric Administration Authorization Act of 1992 is amended by inserting after section 307C (as added by section 3) the following:

''SEC. 307D. ENVIRONMENTAL EDUCATION PILOT PROGRAM.

''(a) PILOT PROGRAM ESTABLISHED.—Not later than 180 days after the date of enactment of this section, the Director, in cooperation with the Chesapeake Executive Council, shall establish the Chesapeake Bay Environmental Education Program to improve the understanding of elementary and secondary school students and teachers of the living resources of the ecosystem of the Chesapeake Bay, and to meet the educational goals of the Chesapeake 2000 agreement.

''(b) GRANT PROGRAM.—

''(1) IN GENERAL.—The Director, through the pilot program established under subsection (a), shall make grants to not-for-profit institutions (or consortia of such institutions) to pay the federal share of the cost of programs described in paragraph (3).

''(2) CRITERIA.—The Director shall award grants under this subsection based on the experience of the applicant in providing environmental education and training programs regarding the Chesapeake Bay watershed to a range of participants and in a range of settings.

''(3) FUNCTIONS AND ACTIVITIES.—Grants awarded under this subsection may be used to support education and training programs that—

''(A) provide classroom education, including the use of distance learning technologies, on the issues, science, and problems of the living resources of the Chesapeake Bay watershed;

''(B) provide meaningful outdoor experience on the Chesapeake Bay, or on a stream or in a local watershed of the Chesapeake Bay, in the design and implementation of field studies, monitoring and assessments, or restoration techniques for living resources;

''(C) provide professional development for teachers related to the science of the Chesapeake Bay watershed and the dissemination of pertinent education materials oriented to varying grade levels;

''(D) demonstrate or disseminate environmental educational tools and materials related to the Chesapeake Bay watershed;

''(E) demonstrate field methods, practices and techniques including assessment of environmental and ecological conditions and analysis of environmental problems; and

''(F) develop or disseminate projects designed to—

''(i) enhance understanding and assessment of a specific environmental problem in the Chesapeake Bay watershed or of a goal of the Chesapeake Bay Program; or

''(ii) protect or restore living resources of the Chesapeake Bay watershed.

''(4) FEDERAL SHARE.—The Federal share of the cost of a program under paragraph (1) shall not exceed 75 percent of the total cost of that program.

''(5) PROGRAM REVIEW.—Not later than 1 year after the date on which the Director awards the first grant under this subsection, and annually thereafter, the Director shall conduct a detailed review and evaluation of the programs supported by grants awarded under this subsection to determine whether the quality of the content, delivery, and outcome of the program warrants continued support.

''(c) PROCEDURES.—The Director shall establish procedures, including safety protocols, as necessary for carrying out the purposes of this section.

''(d) TERMINATION AND REPORT.—

''(1) TERMINATION.—The program established under this section shall be effective during the 4-year period beginning on October 1, 2001.

''(2) REPORT.—Not later than December 31, 2005, the Director, in consultation with the Chesapeake Executive Council, shall submit a report through the Administrator of National Oceanic and Atmospheric Administration to Congress regarding this program and, on the appropriate role of Federal, State and local governments in continuing the program established under this section.

''(e) DEFINITION.—In this section, the term 'Chesapeake 2000 agreement' means the agreement between the United States, the States of Maryland, Pennsylvania, and Virginia, and the District of Columbia entered into on June 28, 2000.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 307(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(d)) is amended to read as follows:

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $8,000,000 for each of fiscal years 2002 through 2005.

''(2) AMOUNTS FOR PROGRAMS.—Of the amount authorized to be appropriated for each fiscal year under paragraph (1)—

''(A) not more than $2,500,000 shall be available to operate the Chesapeake Bay Office and to carry out section 307A;

''(B) not more than $1,000,000 shall be available to carry out section 307B; and

''(C) not more than $500,000 shall be available to carry out section 307C.

''(D) not more than $2,000,000 shall be available to carry out section 307D.

(c) CONFORMING AMENDMENT.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (97 Stat. 1409) is amended by striking subsection (e), as added by section 307(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (106 Stat. 4285).

SEC. 6. TECHNICAL CORRECTION.

Section 307(b) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)) is amended by striking ''Chesapeake Bay Executive Council'' and inserting ''Chesapeake Executive Council''.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, May 15, 2001.

Hon. PAUL SARBANES,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR SARBANES: Last year, a few Members claimed that the Florida Everglades was a national treasure. I know you agree with me that the Chesapeake Bay, which drains six states and the District, has more claim to being a national treasure than the Florida Everglades.

I am writing to thank you for your steadfast support for the Bay. I am also writing to urge you to pass new legislation that will fund wastewater treatment plant upgrades to reduce nutrient pollution in the Bay. Nutrient pollution is the Bay's number one problem. The Bay and its tributaries receive about twice as much nitrogen and phosphorus as they should. Sewage plants are not the sole source, but new technology makes them the low-hanging fruit as we seek reductions.

First, let me give credit where it is due. Over 70 large wastewater treatment plants have been upgraded with technology that dramatically reduces the amount of nitrogen and phosphorus in the treated discharge. Some plants, like the Blue Plains facility in DC, have gone beyond what was asked of them. Virginia and Maryland and the local municipalities have shouldered that cost so far.

Nevertheless, to make a real dent in nutrient pollution, we need to get serious about getting all the major plants to remove nitrogen and phosphorus from the effluent. Another 218 major plants await upgrades. These plants need to install state-of-the-art technology, which would cut 85% of the nitrogen and phosphorus pollution from the treated discharge. That would slash nutrients in the Bay by more than 50 million pounds each year. I've attached a copy of a letter from my staff to yours that provides a detailed background briefing on this subject.

The Clean Water Act promised citizens that they would have clean waters by now. Sadly, the Bay is still polluted thirty years later. If we fail to greatly reduce nutrient pollution in the next few years, the Bay will not be the only loser. Commercial fishermen and their families will suffer. Waterfront property owners will not realize a gain in their investment. Recreational opportunities—so important in this workaholic world—will be diminished. And certainly, an unhealthy Bay imperils human health.

The Chesapeake Bay Foundation stands ready to galvanize public support behind your effort to fund these upgrades. With 92,000 members, a dedicated professional staff and a volunteer board, we are determined to do whatever it takes to save the Bay. Thank you again for all of your hard work on behalf of the Bay.

Sincerely,

WILLIAM C. BAKER,
President.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, May 23, 2001.

Hon. PAUL S. SARBANES,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: We write in support of your efforts to reduce the environmental and public health impacts of one of the major point sources of nutrient pollution to the Chesapeake Bay—municipal wastewater treatment plants. As you know, nearly 300 major sewerage treatment plants located in the Chesapeake Bay watershed discharge approximately 60 million pounds of nitrogen, amounting to 20 percent of the total nitrogen load, into the Chesapeake Bay.

Nutrient pollution has been a particularly difficult and persistent problem in our efforts to protect and restore the Chesapeake Bay's ecosystem. In 1987, the Chesapeake Bay Commission and our Bay partners committed to achieving a 40 percent reduction in controllable nutrient loads to the Bay by the year 2000. While measurable pollution reductions were achieved despite continued population growth and development, the Chesapeake Bay Program estimates that at least an additional 100 million lbs. of nitrogen must be removed in order to correct the Bay's nutrient-related problems by 2010.

Fortunately, the Bay states have led the way in the application of advanced nutrient removal technologies. For example, of Maryland's 66 wastewater treatment plants, biological nutrient removal (BNR) technology is in operation at 34 plants, under construction at 9 plants, and all but one of the remaining wastewater treatment plants have signed cost-share agreements for implementation of BNR. While this technology is one of the most reliable and cost-effective means of reducing nutrient loads to the Bay, it is prohibitively expensive without the combined contribution of local, state, and Federal funds. To date, the financial burden for upgrading aging sewerage infrastructure has rested largely upon local governments, which have a limited capacity to support such expensive capital improvements. The Chesapeake Bay Foundation has derived a rough estimate of $1.2 billion for the application of BNR at treatment plants within the Bay watershed over a 10-year period.

By establishing the proposed grant program under the ''Chesapeake Bay Watershed Nutrient Removal Assistance Act,'' state and local funds could be matched with Federal funds to initiate urgently needed upgrades to eligible wastewater treatment facilities. By prioritizing those facilities that would produce the greatest nutrient load reductions at points of discharge and the greatest environmental benefits to local bodies of water, this program would ensure significant and measurable improvements to the water quality and living resources of the Chesapeake Bay. We commend you and your colleagues for addressing this important issue and offer our assistance in your endeavor.

Sincerely,

BRIAN E. FROSH,
Chairman (Senate of Maryland).

ROBERT S. BLOXOM,
Vice-Chairman (Virginia House of Delegates).

RUSS FAIRCHILD,
Vice-Chairman (Pennsylvania House of Representatives).

MARYLAND DEPARTMENT OF THE ENVIRONMENT,
Baltimore, MD, June 12, 2001.

Hon. PAUL SARBANES,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR SARBANES: The State of Maryland has been pursuing an aggressive program of reducing nutrients from publicly owned wastewater treatment plants through its Biological Nutrient Removal (BNR) Cost-Share Program. This State funded program provides 50% of the costs to upgrade existing wastewater treatment plants with pollutant removal technologies that go beyond regulatory requirements to help meet the goal of cleaning up the Chesapeake Bay and its tributaries.

This State funded program has benefited from your efforts as well as those of Senator Mikulski through the earmarking of special federal appropriations to some of the wastewater treatment plants targeted for these BNR upgrades. This assistance has made the needed improvements affordable to the citizens served by these treatment plants and advanced the goals of the Chesapeake Bay Program.

I am writing to you today to request your continued support of the BNR Program. Maryland has accomplished much in this program. Of the 66 targeted plants, 34 are in operation and 9 are under construction. The remaining plants are in planning and design. Maryland has provided $163 million to fund these improvements, with another $73 to $100 million estimated to be needed to complete the program. The local governments have committed an equal share, and have the need for additional funding to implement BNR. With full implementation of the BNR Program, nitrogen loadings to the Bay will be reduced from 32 to 15.2 million pounds per year.

Achieving this level of nutrient reduction is more critical than ever, as the new goals being evaluated for the Chesapeake 2000 Agreement are refined. It is already clear that we will have to do much more to reduce both point sources and non-point sources of nutrient pollution to restore the Bay.

BNR will remain the cornerstone of the point survey strategy to achieve the needed nutrient reductions. While the BNR program has targeted a nitrogen concentration of 8 mg/l, many of the plants designed with BNR will be able to achieve even lower concentrations. The plants currently in planning and design are being evaluated and designed to be able to achieve lower concentrations, in anticipation of more ambitious Bay goals. In some cases, this may increase project costs, but is a reasonable investment to protect the Bay and its tributaries.

In the interest of maintaining the leadership of the Chesapeake Bay restoration effort by providing a nationally significant demonstration effort, I am asking for your continuing assistance in helping Maryland, and the other jurisdictions in the Chesapeake Bay region, meet these ambitious yet critical nutrient reduction goals. The creation of a special grant program to help local governments upgrade their wastewater treatment plants to reach the lowest possible nutrient discharge levels would ensure that the large publicly owned wastewater treatment plants in the region are maximizing pollutant removals to the benefit of the Chesapeake Bay.

The beneficiaries of this capital investment will be not only the future residents in the Chesapeake Bay region, who will be able to enjoy the environment and economic wealth of the Bay and the living resources with which we share this unique resource, but also the nation which will benefit from

the knowledge gained from the Chesapeake Bay restoration effort.

Sincerely,

JANE NISHIDA,
Secretary.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. VOINOVICH, Mr. BREAUX, Mr. CONRAD, Mr. LUGAR, Mr. SANTORUM Ms. LANDRIEU, and Mr. HATCH):

S. 1048. A bill to amend the Internal Revenue Code of 1986 to provide relief for payment of asbestos-related claims; to the Committee on Finance.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection the text of the bill was ordered to be printed in the RECORD.

S. 1048

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

SECTION. 1. EXEMPTION FOR ASBESTOS-RELATED SETTLEMENT FUNDS.

(a) EXEMPTION FOR ASBESTOS-RELATED SETTLEMENT FUNDS.—Subsection (b) of section 468B of the Internal Revenue Code of 1986 (relating to special rules for designated settlement funds) is amended by adding at the end the following new paragraph:

''(6) EXEMPTION FROM TAX FOR ASBESTOS-RELATED SETTLEMENT FUNDS.—Notwithstanding paragraph (1), no tax shall be imposed under this section or any other provision of this subtitle on any settlement fund to which this section or the regulations thereunder applies that is established for the principal purpose of resolving and satisfying present and future claims relating to asbestos.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 468B(b) of such Code is amended by striking ''There'' and inserting ''Except as provided in paragraph (6), there''.

(2) Subsection (g) of section 468B of such Code is amended by inserting ''(other than subsection (b)(6))'' after ''Nothing in any provision of law''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after December 31, 2000.

SEC. 2. MODIFY TREATMENT OF ASBESTOS-RELATED NET OPERATING LOSSES.

(a) ASBESTOS-RELATED NET OPERATING LOSSES.—Subsection (f) of section 172 of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR ASBESTOS LIABILITY LOSSES.—

''(A) IN GENERAL.—At the election of the taxpayer, the portion of any specified liability loss that is attributable to asbestos may, for purposes of subsection (b)(1)(C), be carried back to the taxable year in which the taxpayer, including any predecessor corporation, was first involved in the production or distribution of products containing asbestos and each subsequent taxable year. In determining its specified liability losses attributable to asbestos, the taxpayer may elect to take into account payments of related parties attributable to asbestos-related products produced or distributed by the taxpayer.

''(B) COORDINATION WITH CREDITS.—If a deduction is allowable for any taxable year by reason of a carryback described in subparagraph (A)—

''(i) the credits allowable under part IV (other than subpart C) of subchapter A shall be determined without regard to such deduction, and

''(ii) the amount of taxable income taken into account with respect to the carryback under subsection (b)(2) for such taxable year shall be reduced by an amount equal to—

''(I) the increase in the amount of such credits allowable for such taxable year solely by reason of clause (i), divided by

''(II) the maximum rate of tax under section 1 or 11 (whichever is applicable) for such taxable year.

''(C) CARRYFORWARDS TAKEN INTO ACCOUNT BEFORE ASBESTOS-RELATED DEDUCTIONS.—For purposes of this section—

''(i) in determining whether a net operating loss carryforward may be carried under subsection (b)(2) to a taxable year, taxable income for such year shall be determined without regard to the deductions referred to in paragraph (1)(A) with respect to asbestos, and

''(ii) if there is a net operating loss for such year after taking into account such carryforwards and deductions, the portion of such loss attributable to such deductions shall be treated as a specified liability loss that is attributable to asbestos.

''(D) LIMITATION.—The amount of reduction in income tax liability arising from the election described in subparagraph (A) that exceeds the amount of reduction in income tax liability that would have resulted if the taxpayer utilized the 10-year carryback period under subsection (b)(1)(C) shall be devoted by the taxpayer solely to asbestos claimant compensation and related costs, through a settlement fund or otherwise.

''(E) COORDINATION WITH OTHER CARRYBACK LIMITATIONS.—The amount of asbestos-related specified liability loss that may be absorbed in a prior taxable year (and the amount of refund attributable to such loss absorption) shall be determined without regard to any limitation under section 381, 382, or 1502 or the regulations thereunder.

''(F) PREDECESSOR CORPORATION.—For purposes of this paragraph, a predecessor corporation shall include a corporation that transferred or distributed assets to the taxpayer in a transaction to which section 381(a) applies or that distributed the stock of the taxpayer in a transaction to which section 355 applies.''.

(b) CONFORMING AMENDMENT.—Paragraph (7) of section 172(f) of such Code, as redesignated by this section, is amended by striking ''10-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after December 31, 2000.

Mr. LEAHY. Mr. President, I am pleased to join with Senator DEWINE in introducing bipartisan legislation to provide common-sense tax incentives to help address asbestos liability issues.

First, our legislation would exempt investment income in an asbestos-related designated settlement funds from Federal income tax, much as the investment income in a 401(k) savings plan is exempt from Federal income tax under current law. To qualify for this exemption from Federal taxation, the principal purpose of the asbestos-related designated settlement fund must be to pay present and future claims to asbestos victims and their families. This tax incentive encourages businesses to create settlement funds to meet their asbestos-related liabilities, just as the tax incentive for 401(k) savings plans encourages workers to invest for their retirement.

Second, our legislation recognizes the unique nature of asbestos-related diseases by providing a special ''carry-back'' rule for a company's losses from paying claims to asbestos victims and their families. Under current law, a company may carry back these costs from products sold in the last ten years. This carry-back period, however, fails to match the realities of asbestos-related diseases, which are often latent for forty or more years. In many cases, companies are paying asbestos-related claims for exposure to products that were produced a half-century ago.

Our legislation would permit companies for whom the ten-year period provides no relief to carry back their current expenses from asbestos payments to victims and their families to the years in which the company produced the asbestos product. This extension of the carry-back tax rule is only fair given the long latency period of asbestos-related diseases.

I agree with Supreme Court Justice Ruth Bader Ginsburg in the Amchem Products decision that Congress can provide a secure, fair and efficient means of compensating victims of asbestos exposure. The appropriate role for Congress is to provide incentives for private parties to reach settlements, not to take away the legal rights of asbestos victims and their families. Our bipartisan bill provides these tax incentives for private parties involved in asbestos-related litigation to reach global settlements and for asbestos victims and their families to receive the full benefit of the incentives.

Encouraging fair settlements while still preserving the legal rights of all parties involved is a win-win situation for business and asbestos victims. For example, Rutland Fire Clay Company, a family-run, 118-year-old small business in my home state of Vermont, recently reached a settlement with its insurers and the trial bar concerning the firm's asbestos problems. Unlike some big businesses that are trying to avoid any accountability for their asbestos responsibilities through national ''tort reform'' legislation, the Rutland Fire Clay Company and its President, Tom Martin, are doing the right thing within the legal system. The tax incentives in our bipartisan bill will support the Rutland Fire Clay Company and its employees while providing financial security for its settlement with asbestos victims and their families.

I believe it is in the national interest to encourage fair and expeditious settlements between companies and asbestos victims. The legislation we are introducing today will encourage payments to victims while ensuring defendant firms remain solvent.

I thank Senator DEWINE for his leadership on this issue. I urge my colleagues to support our bipartisan approach to provide a secure and fair

means of compensating victims of asbestos exposure and to permit businesses with asbestos liabilities to efficiently meet their responsibilities.

By Mr. TORRICELLI:

S. 1049. A bill to provide for an election to exchange research-related tax benefits for a refundable tax credit, for the recapture of refunds in certain circumstances, and for other purposes; to the Committee on Finance.

Mr. TORRICELLI. Mr. President, I rise today to introduce a vital piece of legislation that will encourage the growth of some of the most innovative companies in the world. I refer to the small biotechnology firms throughout the country which on a daily basis perform breakthrough research that enhances our daily lives.

Indeed, biotechnology research over the years has benefitted greatly from successful initiatives such as the R&D tax credit. The R&D credit is of particular importance to my State of New Jersey because there are over 100 companies who spend $20 billion a year in R&D. In fact, over 50 percent of all the prescription drug research in the world is conducted in my State.

Going hand in hand with the R&D tax credit are the contributions of the biotechnology industry. My colleagues are well aware of the importance of this segment of industry and the beneficial role biotechnology plays in improving our quality of life and protecting the environment. In fact, the Senate unanimously approved a resolution acknowledging the benefits of biotech research earlier this Congress.

The Senate has recognized these benefits that are seen in the drugs and vaccines developed over the last 20 years, which have already enabled over 270 million people throughout the world live healthier and longer lives. Today, a breast cancer, leukemia or diabetes patient has a fighting chance to survive their illness through treatments developed by biotech research.

The record number of biotech drug approvals by the FDA over the past five years demonstrates the potential of this industry to develop new therapies which may someday lead to cures and vaccines for debilitating diseases such as heart disease, Alzheimer's, AIDS and cancer.

While the R&D credit has been responsible for enabling much of this breakthrough research, the irony is that many small firms who are performing the most advanced, cutting edge research and experimentation, who desperately need the R&D credit are unable to utilize it because they have failed to turn a profit. These small companies often dedicate all of their resources to one or two major initiatives to conduct long term R&D projects benefitting our medical, agricultural and industrial sectors.

In many instances, these projects are time consuming, expend much capital, and unfortunately are unsuccessful or unmarketable. Consequently, the long term unprofitability of these companies make them unable to take advantage of tax breaks and incentives such as the R&D credit. Therefore, many small firms are forced to abandon their research, sell their innovations to larger companies or simply go out of business.

I firmly believe that these industry failures are our failures because the firm that ends its research today, may have been the company that provides the cure for Parkinson's or Lou Gherig's disease tomorrow.

In order to address this situation, it is time for Congress to adopt a straightforward proposal that would build on the success of the R&D credit to provide these small research companies with the resources they need to continue their vital work. Specifically, I am introducing a proposal to allow these small firms to elect to take a refundable tax credit, equal to 75 percent of the nominal value of their current-year research credits or deductions or 75 percent of the value of the current-year net operating losses multiplied by the highest marginal tax rate for corporations (currently 35 percent).

I have also included safeguard provisions to ensure that the government's investment in these companies is put to good use. Any company that elects to take this refundable tax credit would become ineligible for normal R&D tax credits and normal corporate tax deductions until they are able to payback the original amount of the refundable tax credit in federal income taxes after they turn a profit. Furthermore, my proposal requires that the proceeds from the refundable tax credit must be used towards ongoing research-related activities. My legislation also maintains that if it is determined that a company claiming this credit is not using the proceeds for research, the IRS can recapture that portion of the credit.

This proposal does not seek to supercede or replace the R&D tax credit. Rather, it complements the tremendous success of the R&D credit. It helps the struggling companies that the R&D credit doesn't reach. I am hopeful that my colleagues will recognize, as I do, the magnificent potential of the biotech industry and make this investment in its future.

By Mr. SANTORUM (for himself, Mr. FITZGERALD, and Mr. VOINOVICH):

S. 1050. A bill to protect infants who are born alive; to the Committee on the Judiciary.

Mr. SANTORUM. Mr. President, today I am introducing the Born Alive Infants Protection Act.

When I was first elected to the Senate in 1994, I never imagined that the bill I am offering today would be necessary. Simply stated, this measure gives legal status to a fully born living infant, regardless of the circumstances of his or her birth. I am deeply saddened that we must clarify Federal law to specify that a living newborn baby is, in fact, a person.

One could ask, ''Why do you need Federal legislation to state the obvious? What else could a living baby be, except a person?'' I will begin my explanation with events in 1995, when the Senate began its attempts to outlaw a horrifying, inhumane, and barbaric abortion procedure: partial birth abortion. In this particular abortion method, a living baby is killed when he or she is only inches from being fully born. Twice, the House and Senate stood united in sending a bill to President Clinton to ban this procedure. Twice, President Clinton vetoed the bill; and twice, the House courageously voted to override his veto. Although support in the Senate grew each time the ban came to a vote, the Senate fell a few votes shy of overriding the veto.

Then, on June 28, 2000, the U.S. Supreme Court struck down Nebraska's partial birth abortion ban. The Supreme Court's ruling in Stenberg v. Carhart, as well as subsequent rulings in lower courts, are disturbing on a number of levels. First, the Supreme Court struck down Nebraska's attempt to ban a grotesque procedure the American Medical Association has called ''bad medicine,'' and thousands of physicians who specialize in high risk pregnancies have called ''never medically necessary.'' Further, the Court said it did not matter that the baby is killed when it is almost totally outside the mother's body in this abortion method. In other known abortion methods, the baby is killed in utero. Finally, the U.S. Supreme Court, and the Third Circuit Court have stated it does not matter where the baby is positioned when it is aborted. This assertion, to me, is the most horrifying of all.

In the years of debates on partial birth abortion, I have asked Senators a very simple question: If a partial birth abortion were being performed on a baby, and for some reason the head slipped out and the baby were delivered, would it be o.k. to kill that baby? Not one Senator who defended the procedure has ever provided a straightforward ''yes'' or ''no'' response. They would not answer my question. I believe it is important to define when a child is protected by the Constitution; so, I revised my question. I asked whether it would be alright to kill a baby whose foot is still inside the mother's body, or what if only a toe is inside? Again, I did not receive an answer.

Unfortunately, evidence uncovered last year at a hearing before the House Judiciary Subcommittee on the Constitution suggests my questions were not so hypothetical. In fact, two nurses testified to seeing babies who were born alive as a result of induced labor abortions being left to die in soiled utility rooms. Furthermore, the intellectual framework for legalization of

killing unwanted babies is being constructed by a prominent bioethics professor at Princeton University. Professor Peter Singer has advocated allowing parents a 28-day waiting period to decide whether to kill a disabled or unhealthy newborn. In his widely disseminated book, Practical Ethics, he asserts, ''killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all.''

In response to these events, the Born Alive Infants Protection Act grants protection under Federal law to newborns who are fully outside of the mother. Specifically, it states that Federal laws and regulations referring to a ''person,'' ''human being,'' ''child,'' and ''individual'' include ''every infant member of the species homo sapiens who is born alive at any stage of development.'' ''Born alive'' means ''the complete expulsion or extraction from its mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.'' The definition of ''born alive'' is derived from a World Health Organization definition of ''live birth'' that has been enacted in approximately 30 states and the District of Columbia.

Again, all this bill says is that a living baby who is completely outside of its mother is a person, a human being, a child, an individual. Similar legislation passed by the House of Representatives last year by an overwhelming vote of 380–15. I am hopeful that Senators on both sides of the general abortion debate can agree that once a baby is completely outside of its mother, it is a person, deserving the protections and dignity afforded to all other Americans.

I ask unanimous consent that the text of the Born Alive Infants Protection Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1050

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 ''Born-Alive Infants Protection Act''.

SEC. 2. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

''§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

''(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

''(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from its mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor,caesarean section, or induced abortion.

''(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

''8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.''.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1051. A bill to expand the boundary of the Booker T. Washington National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, today I rise to introduce a bill which will expand the borders of the Booker T. National Washington Monument in Virginia. This extraordinary 224 acres of rolling hills, woodlands, and agricultural fields preserves and protects the birth site and childhood home of Booker T. Washington. It interprets both his life experiences and significance in American history.

On April 2, 1956 the Monument was authorized by Congress to create a ''public national memorial to Booker T. Washington, noted Negro educator and apostle of good will . . .''. Mr. Washington was widely considered the most powerful African American of his time. This park provides a focal point for the continuing discussions on the context of race in American society, a resource for public education, and the continuation of his legacy today.

The agricultural landscape surrounding the Monument plays a critical role in the park's interpretation of Washington's life as an enslaved child during the Civil War era. Many of his most significant experiences center on this small tobacco farm located near the rapidly developing recreational area of Smith Mountain Lake. It is remarkable that the area immediately surrounding the national monument remains relatively unchanged since the time of Booker T. Washington's birth.

As part of the park's strategic plan, a viewshed study was conducted in 1998. It's purpose was to survey the surrounding lands in the most highly visited areas of the park and determine what visual effects urban development would have on the preservation of this historic site. The study identified a 15-acre parcel of land to be the most critical addition for this park because of its proximity to Booker T. Washington's birth site.

Several private landowners now wish to sell some of the surrounding farmland, including the 15-acre tract identified in the viewshed study. I believe that in order to maintain this unique historic setting, the Park Service should acquire this property so that visitors will be able to experience the same pastoral setting that was so crucial to Booker T. Washington's life. I urge my colleagues to join me in preserving this important landmark in our nation's history for all future generations.

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. 1051

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 ''Booker T. Washington National Monument Boundary Adjustment Act of 2001''.

SEC. 2. BOUNDARY OF BOOKER T. WASHINGTON NATIONAL MONUMENT EXPANDED.

The Act entitled ''An Act to provide for the establishment of the Booker T. Washington National Monument'', approved April 2, 1956 (16 U.S.C. 450*ll* et seq.), is amended by adding at the end the following new section:

''SEC. 5. ADDITIONAL LANDS.

''(a) LANDS ADDED TO MONUMENT.—The boundary of the Booker T. Washington National Monument is modified to include the approximately 15 acres, as generally depicted on the map entitled ''Boundary Map, Booker T. Washington National Monument, Franklin County, Virginia'', numbered BOWA 404/80,024, and dated February 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

''(b) ACQUISITION OF ADDITIONAL LANDS.—The Secretary of the Interior is authorized to acquire from willing owners the land or interests in land described in subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

''(c) ADMINISTRATION OF ADDITIONAL LANDS.—Lands added to Booker T. Washington National Monument by subsection (a) shall be administered by the Secretary of the Interior as part of the monument in accordance with applicable laws and regulations.''.

By Mr. HARKIN (for himself, Mr. AKAKA, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. REID, Mr. DOMENICI, Mr. KYL, Mr. BAYH, Mr. INOUYE, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 1053. A bill to reauthorize and amend the Spark M. Matsunaga Hydrogen Research Development, and Demonstration Act of 1990, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HARKIN. Mr. President, I am pleased to introduce today the Hydrogen Future Act of 2001, a bill to reauthorize the Department of Energy's hydrogen energy programs. I am especially pleased that this bill has strong bipartisan support. I worked closely with my colleague from Hawaii, Senator AKAKA, in developing the bill, which builds on the great work of his

predecessor, Spark Matsunaga, and I thank him for his support. Other cosponsors include Senators BINGAMAN, MURKOWSKI, REID, DOMENICI, KYL, BAYH, INOUYE, LIEBERMAN, and JEFFORDS.

There has been a wide-ranging and sometimes fierce debate recently over what should be in a national energy policy. But while there is significant disagreement over near-term strategies, there is a widely shared vision of where we need to end up. For the sake of both the economy and the environment, we need to develop clean, domestic renewable fuels, such as solar heat and power, wind turbines, geothermal power, hydroelectric power, and biomass and ethanol. These fuels are domestic, avoiding the risks of dependence on foreign sources; indeed several of these fuels are widely available in the U.S., so that many states, such as Iowa, that now import virtually all their fuel could bring that work home. The use of multiple fuels, and the local availability, should make supplies more reliable as well. And these renewable fuels are truly ''green''—they cause almost no pollution and result in almost no global warming.

However, the sun, the wind, and even the rivers are not always available when you need them, and you can't store sunlight, wind, or the electricity you make from them. If they are to be major sources of power, you need a way to store the energy.

The need to store electricity is not just a hypothetical problem for an energy future. The California energy crisis this year has vividly demonstrated that electricity is not just another commodity. The terrible price spikes and rolling blackouts occur in part because customers need electricity but cannot store or stockpile it, during brief shortages purchasers have paid hundreds or thousands of dollars a kilowatthour, or found there was no electricity to buy. Californians hoped to create a free and fair market in electricity, but instead find themselves at the mercy of electricity providers.

The automobile industry has also recognized for some time that electric cars could be much more efficient than any combustion engine vehicle, as well as quieter and non-polluting. But they have lacked an effective way to generate electricity on board.

These issues may be even more important abroad. Our world population continues to increase at an almost alarming rate. Back when I was born in 1939, there were three billion people on the earth. When I turned 60 not long ago, there were 6 billion people. And 40 years from now, when by daughter turns 60, there will be 11 billion people on earth.

As countries like India, China and the African Nations become industrialized consumer societies, billions of additional people will want, and deserve to have, a better quality of life. That means heating in the winter and air conditioning in the summer, televisions and microwave ovens and cars. But if they develop the same way we did, we are all in trouble. The air pollution, water pollution, and global warming could make our earth unlivable. And if China and other developing nations import oil to fuel a billion cars, our recent $2 a gallon gasoline prices will look like bargains. For the sake of these countries and for our own sake, we've got to help these developing countries leap-frog fossil fuels and move directly to sustainable development based on renewable energy.

The Hydrogen Future Act is about the solution to the electricity storage problem. Hydrogen is a colorless, odorless, non-toxic gas that can be obtained from ordinary water using electricity or from plants such as switchgrass and trees. Hydrogen can be stored and transported much like natural gas. And it is an almost perfect fuel. When burned, the main waste product is water. But hydrogen can more efficiently be used to power fuel cells, making only electricity, heat, and pure water. And it's safe, escaping harmlessly into the air if there is a leak.

Because of these qualities, hydrogen has long been a technologist's dream. Jules Verne imagined hydrogen from water powering machinery, trains, and and lights back in 1874. But in 1990, when the Hydrogen Research, Development, and Demonstration Act first became law, hydrogen was still used for energy more in space, by NASA, than on earth.

How things are changing. Hydrogen fuel cells are no longer a laboratory curiosity. Today, the First National Bank of Omaha, just outside my home state of Iowa, uses fuel cells to power its credit card service operations. They wanted fuel cells because of their reliability. They figure it costs them one million dollars for every hour their power is out, and that the $3.8 million system has already paid for itself. The New York Central Park Police Station relies on a fuel cell for off-grid electricity because it would have cost over a million dollars to run power line extensions to the building. And at the Kirby Cove Campground in California, fuel cells have another advantage: they're quiet.

We've seen public buses running on hydrogen fuel cells in Chicago and Vancouver and Southern California. Every major car manufacturer has prototype fuel cell cars and vans on the roads. And there are hydrogen fueling stations in places such as Dearborn, Michigan; Las Vegas, Nevada, and Sacramento, CA. Some companies are developing fuel cells to power cell phones and personal computers, others for full-size power plants. Companies have announced plans to deliver commercial fuel cell products in the next few years in cars, buses, and homes.

Soon hydrogen may be powering the world. It's potential is so great that some people look forward to a ''hydrogen economy,'' an economy in which hydrogen is the ubiquitous energy ''carrier'' between renewable sources and all end uses. Larry Burns, a vice president of General Motors has said, ''We believe hydrogen will be the fuel of the future.'' And Don Huberts, of Shell, said ''The stone age did not end because the world ran out of stones, and the oil age will not end because we run out of oil.'' Saudi Arabian Oil Minister Ahmed Zaki Yamani has used almost the same words. Now Iceland has embarked on a visionary program to create the world's first hydrogen economy using their abundant hydroelectric and geothermal resources.

The Department of Energy hydrogen energy program is a critical part of this revolution. The program conducts research in the efficient and cost-effective production of hydrogen from renewable sources and from fossil fuels, in effective storage of hydrogen, and in potential uses such as reversible fuel cells, as well as in necessary infrastructure including hydrogen sensors. The program demonstrates technologies such as hydrogen fueling and remote off-grid power applications. The program also conducts invaluable process and market analyses, as well as doing necessary work on codes and regulations. They are working on ceramic membranes, combined electricity generation and hydrogen production, and niche markets such as vehicles in mines. Almost all projects are funded in party by industry.

The bill we are introducing today will extend, expand, and improve this DOE program. Because of the enormous promise of hydrogen energy, and the current rapid expansion of opportunities, the bill authorizes a significant increase in funding for the hydrogen program, to $60 million next year, with a total of $350 million over five years.

It also establishes a new program aimed at demonstrating hydrogen technologies and their integration with fuel cells at Federal, State, and local government facilities. The program would be based on a plan to be developed by an interagency task force. It would focus on hydrogen production, storage, and use in buildings and vehicles; on hydrogen-based infrastructure for buses and fleet transportation; and on distributed power generation, including the generation of combined heat, power, and hydrogen. This new demonstration program would be funded at an additional $20 million next year, with a total of $150 million over five years.

The bill makes other improvements, including: Modification of cost-sharing requirements to enable more participation in research projects by small companies and to exclude from cost-sharing analytical and service work that will not lead to commercial products. These changes are intended to conform more closely to the requirements in the Energy Policy Act of 1992 that govern the rest of the renewable energy program, without violating WTO rules; Language incorporating international activities where appropriate in the

DOE programs. A global perspective is necessary both to develop world markets for our products and to encourage international development on a sustainable path; Clarification of the composition of the Hydrogen Technical Advisory Panel that oversees the program for DOE; Reporting requirements to further enhance inter-agency and inter-governmental cooperation in the hydrogen program.

This bill has the support of the chairman and ranking members of the Energy Committee as well as the chairman and ranking member of the Energy and Water Subcommittee of the Appropriations Committee. I understand that a bill to reauthorize the Hydrogen Future Act will also be introduced today in the House by Representatives KEN CALVERT and SHERWOOD BOEHLERT, key members of the Science Committee. And the recent report of the administration's National Energy Policy Development Group recommended reauthorization of the hydrogen program. I hope with this strong bipartisan support we will be able to pass this bill quickly and to help realize hydrogen's potential in providing the clean, reliable energy we so desperately need.

Mr. AKAKA. Mr. President, I am pleased to join Senator HARKIN, Senator BINGAMAN and Senator MURKOWSKI, Chairman and Ranking Member of the Senate Committee on Energy and Natural Resources, my colleagues Senators BAYH, DOMENICI, JEFFORDS, KYL, LIEBERMAN, REID, and my senior colleague from Hawaii, Senator INOUYE, in introducing legislation that will accelerate the ongoing efforts for the development of a fuel for the future—hydrogen. Hydrogen is an efficient and environmentally friendly energy carrier that can be obtained using conventional or renewable resources.

In these days of soaring energy prices, oil cartels, air pollution, global climate change and greenhouse gases, hydrogen is a dazzling alternative. We can have a zero-pollution fuel. It can be produced domestically, ending our dependence on foreign oil. The question is not whether there will be a hydrogen age but when.

Hydrogen as a fuel can help us resolve our energy problems and satisfy much of the world's energy needs. I am convinced that sometimes in the 21st century, hydrogen will join electricity as one of our Nation's primary energy carriers, and hydrogen will ultimately be produced from renewable sources. In the next twenty years, increasing concerns about global climate change and energy security will help bring about penetration of hydrogen in several niche markets. The growth of fuel cell technology will allow the introduction of hydrogen in both the transportation and electricity sectors.

I have a long-term vision for hydrogen energy as a renewable resource. Progress is being made and challenges and barriers are being surmounted at an accelerating pace on a global scale. Fuel cells for distributed stationary power are being commercialized and installed in various locations in the United States and worldwide. Transit bus demonstration programs are underway in both the United States and Europe. Major automobile companies are poised to deploy fuel cell passenger cars within the next few years. All these activities involve government and private sector cooperation.

Industry is moving ahead with fuel cell developments at a rapid pace. Many companies are forming partnerships to bring new technologies to the marketplace. Daimler-Chrysler, Ford, and Ballard have formed a partnership and pledged $1.5 billion for commercialization of automotive fuel cells. Edison Development Company, General Electric, SoCal Gas, and Plug Power have agreements to commercialize residential fuel cells.

National governments are turning to hydrogen as the fuel of the future. Iceland is making a strong bid to become the world's first hydrogen-based economy. According to its plans, hydrogen-powered cars and buses will transport people in Reykjavik, the country's capital within ten years. If all goes well there will be no need for oil in Iceland.

Closer to home, I am particularly pleased that the State of Hawaii is taking the lead in ushering in the hydrogen era. Our State Legislature is advancing bills that would authorize the formation of a public-private sector partnership for promoting hydrogen as an energy source. The partnership would involve the State, Counties, Federal Government, utilities, and private companies. The partnership would be charged with developing plans to promote investment in hydrogen infrastructure, begin pilot plants to produce hydrogen from geothermal and other sources on Oahu, study how to move hydrogen to other islands, and study how wind and other methods could be used to produce hydrogen. In California, the state's zero emissions vehicle requirements favor early introduction of hydrogen-powered vehicles.

These are very important initiatives. They may be small steps, but for the hydrogen future they are important steps forward.

My predecessor in the Senate, Senator Spark Matsunaga was one of the first to focus attention on hydrogen by sponsoring hydrogen research legislation. The Matsunaga Hydrogen Act, as the legislation became known, was designed to accelerate development of domestic capability to produce an economically renewable energy source in sufficient quantities to reduce the Nation's dependence on conventional fuels. As a result of Senator Matsunaga's vision, the Department of Energy has been conducting research that will advance technologies for cost-effective production, storage, and utilization of hydrogen.

The Hydrogen Future Act of 1996, which followed the Matsunaga Hydrogen Act, expanded the research, development, and demonstration program under the original Act. It authorized activities leading to production, storage, transformation, and use of hydrogen for industrial, residential, transportation, and utility applications. It enjoyed bipartisan support in Congress.

Today we are introducing legislation that reauthorizes and amends the Hydrogen Future Act of 1996. It highlights the potential of hydrogen as an efficient and environmentally friendly source of energy, the need for a strong partnership between the Federal government, industry, and academia, and the importance of continued support for hydrogen research. It fosters collaboration between Federal agencies, State and local governments, universities, and industry, and it encourages private sector investment and cost sharing in the development of hydrogen as an energy source. It adds provisions for the demonstration of hydrogen technologies at government facilities to expedite wider application of these technologies.

The bill we are introducing today supports the recommendations of the President's Council of Advisors on Science and Technology, PCAST. In its report issued in November 1997, PCAST proposed a substantial increase in Federal spending for applied energy technology R&D, with the largest share going to energy efficiency and renewable energy technologies. The PCAST report, ''Federal Energy Research and Development for the Challenges of the Twenty-First Century,'' acknowledged and supported advances in a wide range of both hydrogen-producing and hydrogen-using technologies.

The current Hydrogen Program, administered by the Department of Energy, supports a broad range of research and development projects in the areas of hydrogen production, storage, and use in a safe and cost-effective manner. Some of these new technologies may become available for wider use in the next few years. The most promising include advanced natural gas- and biomass-based hydrogen production technologies, high pressure gaseous and cryogas storage systems, and reversible PEM fuel cell systems. Other projects lay the groundwork for long range opportunities. These activities need continued support if the nation is to enjoy the benefits of a clean energy source.

The Hydrogen Program utilizes the talents of our national laboratories and our universities. The National Renewable Energy Laboratory, Sandia, Lawrence Livermore, Los Alamos, and Oak Ridge National Laboratories, as well as Jet Propulsion Laboratory are involved in the program. The DOE Field Office at Golden, Colorado, and Nevada Operations Office in Nevada are also involved. University-led centers-of-excellence have been established at the University of Miami and the University of Hawaii. U.S. participation in the International Energy Agency contributes to

the advancement of DOE hydrogen research through international cooperation. The program has also built strong links with the industry. This has resulted in strong industry participation and cost sharing. Cooperation between government, industry, universities, and the national laboratories is key to the successful development and commercialization of new and environmentally friendly energy technologies.

The legislation we are introducing today authorizes $350 million over the next five years for research and development for hydrogen production, storage and use. This will allow advancement of technologies such as smaller-scale production systems that are applicable to distributed-generation and vehicle applications, advanced pressure vessels, photobiological and photocatalytic production of hydrogen, and carbon nanotubes, graphite nanofibers, and fullerenes.

The bill also authorizes $150 million for conducting integrated demonstrations of hydrogen technologies at government facilities. This provision will help secure industry participation through competitive solicitations for technology development and testing. It will test the viability of hydrogen production, storage, and use, and lead to the development of hydrogen-based operating experience acceptance to meet safety codes and standards.

By supporting this bill, we will be ushering in a new era of non-polluting energy. I urge my colleagues to support this important legislation.

By Mr. KOHL (for himself and Mr. REID):

S. 1054. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to re-introduce the Patient Abuse Prevention Act. I am pleased to be joined in this effort by Senator REID, who has worked tirelessly with me on this important legislation.

There is absolutely no excuse for abuse or neglect of the elderly and disabled at the hands of those who are supposed to care for them. Our parents and grandparents made our country what it is today, and they deserve to live with dignity and the highest quality care.

Unfortunately, this is not always the case. We know that the majority of caregivers are dedicated, professional, and do their best under difficult circumstances. But we also know that too often, the elderly are starved, shamed, abused, neglected and exploited by the very people charged with their care. And the systems that are in place today are not enough to protect them.

It is estimated that more than 43 percent of Americans over the age of 65 will likely spend time in a nursing home. The number of people needing long-term care services will continue to increase as the Baby Boom generation ages. While most long-term care workers do an excellent job, it only takes a few abusive staff to cast a dark shadow over what should be a healing environment.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. In 1997, the Milwaukee Journal-Sentinel ran a series of articles describing this problem, which led my home State of Wisconsin to pass a criminal background check law for health care workers. The legislation I introduce today follows their example and builds on their efforts.

Current State and National safeguards are inadequate to screen out abusive workers. All States are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to coordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

In addition, there is no Federal requirement that long-term care facilities conduct criminal background checks on prospective employees. People with violent criminal backgrounds, people who have already been convicted of murder, rape, and assault, could easily get a job in a nursing home or other health care setting without their past ever being discovered.

Our legislation will go a long way toward solving this problem. First, it will create a National Registry of abusive long-term care employees. States will be required to submit information from their current State registries to the National Registry. Facilities will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of patient abuse will be prohibited from working in long-term care.

Second, the bill provides a second line of defense to protect patients from violent criminals. If the National Registry does not contain information about a prospective worker, the facility is then required to initiate an FBI background check. Any conviction for patient abuse or a relevant violent crime would bar that applicant from working with patients.

There is clear evidence that this is needed. In 1998, at my request, the Senate Special Committee on Aging held a hearing that focused on how easy it is for known abusers to find work in long-term care and continue to prey on patients. At that hearing, the HHS Inspector General presented a report which found that, in the two States they studied, between 5–10 percent of employees currently working in nursing homes had serious criminal convictions in their past. They also found that among aides who had abused patients, 15–20 percent of them had at least one conviction in their past.

But even more compelling, we heard from Richard Meyer of Libertyville, Illinois, whose 92-year old mother was raped by a nursing home worker who had a previous conviction for child sexual abuse. A criminal background check could have prevented this tragedy. But even more appalling, there is nothing in current law that prevents her assailant from travelling 50 miles to my home town of Milwaukee and finding another job in a home health agency.

There's no greater illustration of the need for background checks than this. But for those who need more hard data, there is more evidence. In 1998, I offered an amendment which became law that allowed long-term care providers to voluntarily use the FBI system for background checks. So far, 7 percent of those checks have come back with criminal convictions, including rape and kidnapping.

Clearly, this is a critical tool that long-term care providers should have, they don't want abusive caregivers working for them any more than families do. The current voluntary system was a good first step, but if we're serious about protecting our seniors, and I believe that every Member of the Senate is, then we have to do more than make it voluntary. We should make it a national priority to require all long-term care providers who participate in Medicare and Medicaid to conduct these checks. And we should make the investment necessary to cover the costs of the checks, just like we reimburse providers for other costs of providing care to Medicare and Medicaid beneficiaries. This is a common-sense, inexpensive step we can take to protect patients by helping long-term care providers thoroughly screen potential caregivers.

I realize that this legislation will not solve all instances of abuse. We still need to do more to stop abuse from occurring in the first place. But this bill will ensure that those who have already abused an elderly or disabled patient, and those who have committed violent crimes against people in the past, are kept away from vulnerable patients.

I want to repeat that I strongly believe that most long-term care providers and their staff work hard to deliver the highest quality care. However, it is imperative that Congress act immediately to get rid of those that don't. When a patient checks into a nursing home or hospice, or receives home health care, they should not have to give up their right to be free from abuse, neglect, or mistreatment.

This bill is the product of collaboration and input from the health care industry, patient and employee advocates who all have the same goal I do: protecting patients in long-term care. I look forward to continuing to work with my colleagues, the Administration, and the health care industry in

this effort. Our nation's seniors and disabled deserve nothing less than our full attention.

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. 1054

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 ''Patient Abuse Prevention Act''.

SEC. 2. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) NURSING FACILITY AND SKILLED NURSING FACILITY REQUIREMENTS.—

(1) MEDICAID PROGRAM.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:

''(8) SCREENING OF NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a nursing facility worker, a nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(8); and

''(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A nursing facility may not knowingly employ any nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a provisional period of employment for a nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the worker during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that a nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A nursing facility that obtains information about a nursing facility worker pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(8) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a nursing facility that—

''(I) knowingly continues to employ a nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) NURSING FACILITY WORKER.—The term 'nursing facility worker' means any individual (other than any volunteer) that has direct access to a patient of a nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(2) MEDICARE PROGRAM.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following:

''(8) SCREENING OF SKILLED NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a skilled nursing facility worker, a skilled nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(6); and

''(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A skilled nursing facility may not knowingly employ any skilled nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a skilled nursing facility may provide for a provisional period of employment for a skilled nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the covered individual during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that a skilled nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A skilled nursing facility that obtains information about a skilled nursing facility worker pursuant to clauses

(iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(6) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A skilled nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a skilled nursing facility that—

''(I) knowingly continues to employ a skilled nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a skilled nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a skilled nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) SKILLED NURSING FACILITY WORKER.—The term 'skilled nursing facility worker' means any individual (other than any volunteer) that has direct access to a patient of a skilled nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(3) TECHNICAL AMENDMENTS.—Effective as if included in the enactment of section 941 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–585), as enacted into law by section 1(a)(6) of Public Law 106–554, sections 1819(b) and 1919(b) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)), as amended by such section 941 (as so enacted into law) are each amended by redesignating the paragraph (8) added by such section as paragraph (9).

(b) STATE REQUIREMENTS.—

(1) MEDICAID PROGRAM.—

(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''NURSING FACILITY EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (I) all individuals''; and

(cc) by inserting before the period '', and (II) all other nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)'';

(III) in subparagraph (B), by striking ''involving an individual listed in the registry'' and inserting ''involving a nursing facility employee''; and

(IV) in subparagraph (C), by striking ''nurse aide'' and inserting ''nursing facility employee or applicant for employment''; and

(ii) in subsection (g)(1)—

(I) in subparagraph (C)—

(aa) in the first sentence, by striking ''nurse aide'' and inserting ''nursing facility employee''; and

(bb) in the third sentence, by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''; and

(II) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''NURSING FACILITY EMPLOYEE REGISTRY''; and

(bb) by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''.

(B) FEDERAL AND STATE REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1919(e) of the Social Security Act (42 U.S.C. 1396r(e)) is amended by adding at the end the following:

''(8) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) report to the nursing facility the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation, until expended.

''(II) STATE.—A State may charge a nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(8), including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(2) MEDICARE PROGRAM.—

(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT SKILLED NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting

''SKILLED NURSING CARE EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (I) all individuals''; and

(cc) by inserting before the period '', and (II) all other skilled nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)'';

(III) in subparagraph (B), by striking ''involving an individual listed in the registry'' and inserting ''involving a skilled nursing facility employee''; and

(IV) in subparagraph (C), by striking ''nurse aide'' and inserting ''skilled nursing facility employee or applicant for employment''; and

(ii) in subsection (g)(1)—

(I) in subparagraph (C)—

(aa) in the first sentence, by striking ''nurse aide'' and inserting ''skilled nursing facility employee''; and

(bb) in the third sentence, by striking ''nurse aide'' each place it appears and inserting ''skilled nursing facility employee''; and

(II) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''NURSING FACILITY EMPLOYEE REGISTRY''; and

(bb) by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''.

(B) FEDERAL AND STATE REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following:

''(6) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO SKILLED NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) report to the skilled nursing facility the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation until expended.

''(II) STATE.—A State may charge a skilled nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(c) APPLICATION TO OTHER ENTITIES PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES.—

(1) MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in paragraph (65), by striking the period and inserting ''; and''; and

(B) by inserting after paragraph (65) the following:

''(66) provide that any entity that is eligible to be paid under the State plan for providing home health services or long-term care services for which medical assistance is available under the State plan to individuals requiring long-term care complies with the requirements of subsections (b)(8) and (e)(8) of section 1919.''.

(2) MEDICARE.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

''APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO ANY PROVIDER OF SERVICES OR OTHER ENTITY PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES

''SEC. 1897. The requirements of subsections (b)(8) and (e)(6) of section 1819 shall apply to any provider of services or any other entity that is eligible to be paid under this title for providing home health services or long-term care services to an individual entitled to benefits under part A or enrolled under part B (including an individual provided with a Medicare+Choice plan offered by a Medicare+Choice organization under part C).''.

(d) REIMBURSEMENT OF REASONABLE COSTS FOR BACKGROUND CHECKS.—The Secretary of Health and Human Services shall factor into any payment system under titles XVIII and XIX of the Social Security Act the reasonable costs of the requirements of sections 1819(b)(8) and 1919(b)(8) of such Act, as added by this section, incurred by any entity subject to such requirements.

SEC. 3. INCLUSION OF ABUSIVE WORKERS IN THE DATABASE ESTABLISHED AS PART OF NATIONAL HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) INCLUSION OF ABUSIVE ACTS WITHIN A LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g)(1)(A) of the Social Security Act (42 U.S.C. 1320a–7e(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv), the following:

''(v) A finding of abuse or neglect of a patient or a resident of a long-term care facility, or misappropriation of such a patient's or resident's property.''.

(b) COVERAGE OF LONG-TERM CARE FACILITY OR PROVIDER EMPLOYEES.—Section 1128E(g)(2) of the Social Security Act (42 U.S.C. 1320a–7e(g)(2)) is amended by inserting '', and includes any individual of a long-term care facility or provider (other than any volunteer) that has direct access to a patient or resident of such a facility under an employment or other contract, or both, with the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, providing services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants)'' before the period.

(c) REPORTING BY LONG-TERM CARE FACILITIES OR PROVIDERS.—

(1) IN GENERAL.—Section 1128E(b)(1) of the Social Security Act (42 U.S.C. 1320a–7e(b)(1)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(2) CORRECTION OF INFORMATION.—Section 1128E(c)(2) of the Social Security Act (42 U.S.C. 1320a–7e(c)(2)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(d) ACCESS TO REPORTED INFORMATION.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended by striking ''and health plans'' and inserting '', health plans, and long-term care facilities or providers''.

(e) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—Section 1128E(d) of the Social Security Act (42 U.S.C. 1320a–7e(d)) is amended by adding at the end the following:

''(3) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—A long-term care facility or provider shall check the database maintained under this

section prior to hiring under an employment or other contract, or both, any individual as an employee of such a facility or provider who will have direct access to a patient or resident of the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, that will provide services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants).''.

(f) DEFINITION OF LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g) of the Social Security Act (42 U.S.C. 1320a–7e(g)) is amended by adding at the end the following:

''(6) LONG-TERM CARE FACILITY OR PROVIDER.—The term 'long-term care facility or provider' means a skilled nursing facility (as defined in section 1819(a)), a nursing facility (as defined in section 1919(a)), a home health agency, a hospice facility, an intermediate care facility for the mentally retarded (as defined in section 1905(d)), or any other facility that provides, or provider of, long-term care services or home health services and receives payment for such services under the medicare program under title XVIII or the medicaid program under title XIX.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the amendments made by this section, $10,200,000 for fiscal year 2002.

SEC. 4. PREVENTION AND TRAINING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration program to provide grants to develop information on best practices in patient abuse prevention training (including behavior training and interventions) for managers and staff of hospital and health care facilities.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall be a public or private nonprofit entity and prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant under this section shall be used to—

(1) examine ways to improve collaboration between State health care survey and provider certification agencies, long-term care ombudsman programs, the long-term care industry, and local community members;

(2) examine patient care issues relating to regulatory oversight, community involvement, and facility staffing and management with a focus on staff training, staff stress management, and staff supervision;

(3) examine the use of patient abuse prevention training programs by long-term care entities, including the training program developed by the National Association of Attorneys General, and the extent to which such programs are used; and

(4) identify and disseminate best practices for preventing and reducing patient abuse.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 5. EFFECTIVE DATE.

The provisions of and amendments made by the Act shall apply, without regard to whether implementing regulations are in effect, to any individual applying for employment or hired for such employment—

(1) by any skilled nursing facility (as defined in section 1819(a) of the Social Security Act) or any nursing facility (as defined in section 1919(a) of such Act), on or after the date which is 6 months after the date of enactment of this Act,

(2) by any home health agency, on or after the date which is 12 months after such date of enactment, and

(3) by any hospice facility, any intermediate care facility for the mentally retarded (as defined in section 1905(d) of the Social Security Act), or any other facility that provides long-term care services and receives payment for such services under the medicare program under title XVIII of such Act or the medicaid program under title XIX of such Act, on or after the date which is 18 months after such date of enactment.

By Mrs. FEINSTEIN:

S. 1055. A bill to require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased today to introduce the Privacy Act of 2001.

This legislation combats the growing scourge of identity theft and other privacy abuses by setting a national standard for privacy protection.

The bill has a simple goal. It is designed to give back to ordinary citizens control over their personal information.

Under the Privacy Act of 2001, if a company intends to collect and sell a customer's address, phone number, or other non-sensitive information, the company must give the customer notice and an opportunity to opt-out of the sale if they so choose.

For especially sensitive personal information such as financial, health, driver's licenses, and Social Security Numbers, the legislation establishes more stringent privacy protections.

Specifically, the bill requires an individual's opt-in prior to the sale, licensing, or renting of their personal financial or health information.

In other words, opt-in means that a person must give their explicit and affirmative consent before an entity can use this type of personal information.

The bill would also close loopholes in the Driver's Privacy Protection Act, most recently amended last year, so that a State Department of Motor Vehicles can no longer disclose the most sensitive information on a driver's license, such as the driver's identification number or physical characteristics, without the driver's opt-in.

Finally, the bill would restrict the purchase, sale, and display of Social Security numbers to the general public.

Why do we need a Federal privacy law?

The new economy has exponentially increased the flow of personal information, but the protections for individual privacy have not kept pace.

With access to sensitive data so widely available, often just at the touch of a keyboard, identity theft has become one of the country's fastest growing crimes.

Identity theft is when a thief steals your personal information and then uses it to run up huge bills on your credit cards, bank accounts or other accounts. In some cases, identity theft has also resulted in stalking and murder.

Recent statistics on the growth of identity theft suggest we have no time to waste in protecting personal privacy.

The Federal Bureau of Investigation estimates 350,000 cases of identity theft occur each year. That's one case every two minutes.

Not surprisingly, members of the public have flooded our Federal agencies with pleas for assistance. Reports to the Social Security Administration of Social Security number misuse have increased from 7,868 in 1997 to 46,839 in 2000, an astonishing increase of over 500 percent.

The Federal Trade Commission, FTC, has experienced a similar explosion of cases. If recent trends continue, reports of identity theft to the Federal Trade Commission will double between 2000 and 2001, to over 60,000 cases.

Fully 40 percent of all consumer fraud complaints received by the FTC in the first three months of 2001 involved identity theft.

Unfortunately, the State most affected by these complaints is California. Fully 17 percent of the identity theft complaints the FTC received this past winter came from my home state.

Let me give some real-world examples of privacy abuses:

Social Security Number Privacy: Amy Boyer, a 20-year-old dental assistant from Maine was killed in 1999 by a stalker who bought her Social Security number off the Internet for $45, and then used it to locate her work address.

Identity Theft No. 1: Michelle Brown of Los Angeles, California, had her Social Security number stolen in 1999, and it was used to charge $50,000 including a $32,000 truck, a $5,000 liposuction operation, and a year-long residential lease.

While assuming the victim's name, the perpetrator also became the object of an arrest warrant for drug smuggling in Texas.

Identity Theft No. 2: An identity theft ring in Riverside County allegedly bilked eight victims of $700,000. The thieves stole personal information of employees at a large phone company and drained their on-line stock accounts.

One employee reportedly had $285,000 taken from his account when someone was able to access his account by supplying the employee's name and Social Security number.

Financial Privacy: In a September 14, 1999 editorial, the Los Angeles Times described how a small San Fernando Valley bank, ''sold 3.7 million credit card numbers to a felon, who then bilked cardholders out of millions of dollars.'' According to the article, the bank was not held liable for this action.

It is also astonishing what some data marketers are now providing to their customers.

According to the Los Angeles Times, some marketing companies have started selling lists of as many as 120 million households which include names, addresses, and phone numbers, estimated income, marital status, buying habits and hobbies.

Similarly, a medical information service has made databases available to its customers which contain the phone number, gender and address of: 3.3 million people with allergies, 3.0 million people with heartburn, 850,000 with yeast infections, 450,000 people with incontinence, and 368,000 people who suffer clinical depression.

As a result, we have seen privacy become the top consumer protection issue.

The bill I am introducing today, the Privacy Act of 2001, contains two bedrock principles.

Privacy legislation should not discriminate against any system of communication.

If personal information deserves protection, it deserves protection however it is collected. It should not matter whether personal data is collected in person, over the phone, or on the Internet.

Nevertheless, some privacy bills have exclusively targeted Internet transactions. There is no justification for discriminating against high technology companies by imposing Internet-specific privacy rules.

Companies operating on the Internet should not have any more duties to protect privacy than businesses extracting information from warranty cards or mail catalogues.

Not all personal information deserves the same level of privacy protection.

Some information like Social Security numbers, motor vehicle records, personal financial information, and medical information deserve higher levels of privacy protection.

With regard to the first principle, the Privacy Act of 2001 protects the privacy of information regardless of the medium through which it is collected.

Other privacy proposals have tried to confine privacy legislation to the Internet.

These proposals unfairly discriminate against high technology users. Put simply, companies and other entities can misuse personal information from off-line sources just as easily as with on-line sources.

Why should a company extracting data from a warranty card have any less of a duty to protect personal privacy than a company collecting personal data on-line?

For example, telemarketers who besiege consumers with phone calls during the dinner hour get much of their personal information used from consumers filling out and mailing back warranty and registration cards. But these warranty cards give consumers no notice about how their personal information will be used.

Consider the case of Anne Marie Levine, a Virginia resident, who entered a raffle to win a new car.

The sponsor of the raffle, unbeknownst to Ms. Levine, sold the personal information on her raffle ticket. In the next two weeks, she received calls from a host of jeep dealers in the area.

While some may consider unsolicited marketing calls a mere annoyance, Ms. Levine was outraged, as I'm sure many Americans would be, that the auto dealer sold her personal information without her permission.

Moreover, with the advent of digital scanners, digital photography, and data processing, the distinctions between on-line and off-line transactions are already blurring.

With regard to the second principle, the Privacy Act of 2001 recognizes that not all categories of personal information merit the same level of protection.

The bill requires businesses intending to collect and sell nonsensitive personal information, eg. name, phone number, address, to nonaffiliated third parties to give customers notice and the opportunity to opt-out of the sale.

The opt-out standard for non-sensitive information ensures that if a person fills out a warranty card, sign-up for a computer service, or submit an entry for a sweepstakes, the business must notify him before it sells his personal information to other businesses or marketers.

This framework guarantees basic privacy protections for consumers without unduly impacting commerce.

To eliminate unnecessary burdens on businesses, the legislation sets up a safe harbor for businesses which appropriately use nonsensitive personal information. Industries and industry-sponsored seal programs which have already adopted Notice-and-Opt Out information policies will be exempt.

The bill also sets a national standard for the sale or marketing of nonsensitive personal information.

Federal preemption is needed because a jumbled patchwork of State privacy laws helps neither businesses nor consumers. Conflicting State laws lead to consumer confusion about privacy rights.

For example, if one logs onto an Internet site, which State law governs: the law of the State of the computer user, the law where the website is being operated, or the law of the State of the manufacturer of a product?

Similarly, a patchwork of 50 State privacy laws, would pose a logistical nightmare for corporate America.

Without Federal preemption, businesses will face the unsavory choice of either adopting, for consistency's sake, privacy guidelines that comply with the strictest state privacy law, or dealing with the costs and paperwork imposed by 50 different state privacy laws.

For especially sensitive personal data, like financial data, medical data, or a driver's license, the bill pushes for an opt-in model of consent.

I believe people should have control over how their most sensitive information is used. In the absence of a customer's express permission, company's should not market or sell sensitive personal data.

To create this opt-in standard, this legislation builds upon the existing lattice-work of Federal privacy laws.

For example, the bill modifies the recently enacted Gramm-Leach-Bliley Financial Services Modernization Act by requiring an opt-in for the sale of personal financial information.

Presently, under the Gramm-Leach-Bliley Act, a bank must give a customer notice and the opportunity to opt-out before the bank can disclose private financial information to non-affiliated third parties.

This legislation would impose a stricter standard if the bank tries to sell the information. Any bank that sells personal financial information to non-affiliated third parties would have to get the prior consent of the customer, OPT-in.

Similarly, this bill strengthens the privacy protections for personal health data.

The newly enacted Department of Health and Human Services privacy regulations set a basic opt-in framework for disclosure of health information. I recognize that the rules are being revised by the Bush administration, so any discussion of health privacy must necessarily contemplate a moving target.

Nevertheless, the current version of the regulation has loopholes that limit patient privacy.

The regulations only prohibit ''covered entities, namely health insurers, health providers, and health care clearinghouses, from selling a patient's health information without that patient's prior consent, an Opt-in Model.

Meanwhile, non-covered entities such as business associates, health researchers, schools or universities, and life insurers are not subject to this opt-in requirement, except through contractual arrangements.

My bill would preserve the privacy of health information wherever the information is sold. Any life insurer, school or non-covered entity trying to sell protected health information would have to get the patient's consent.

In addition, the bill would require entities to obtain a patient's approval before using ''protected health information'' for marketing purposes.

This legislation builds on existing law to protect the information on our drivers' licenses.

With its recent amendments, the Driver's Privacy Protection Act, DPPA, offers some meaningful protections for drivers privacy.

For example, under the DPPA, a State Department of Motor Vehicles must obtain the prior consent, Opt-in of the driver before ''highly restricted personal information, defined as the driver's photograph, image, Social Security number, medical or disability information, can be disclosed to a third party.

However, loopholes remain. Other sensitive information found on a driver's license deserves equal protection.

This legislation would expand the definition of ''highly restricted personal'' to include a physical copy of a driver's license, the driver identification number, birth date, information on the driver's physical characteristics and any biometric identifiers like a fingerprint that are found on the driver's license.

Thus, this bill would ensure consumers have control over how their motor vehicle records and driver's license data are used.

I would like to take a moment to highlight Title II of this legislation, which reflects a compromise with Senator GREGG on the privacy of Social Security numbers.

It is so crucial to protect Social Security Numbers because these are the key to unlocking a person's identity.

Many identity theft cases start with the theft of a Social Security number.

Once a thief has access to a victim's Social Security number, it is only a short step to acquiring credit cards, driver's licenses, or other crucial identification documents.

The Feinstein/Gregg compromise bars the sale or display of Social Security numbers to the public except in a very narrow set of circumstances.

Display or sale is permitted if the Social Security Number holder gives consent or if there are compelling public safety needs.

For the first time, Federal, State, and local governments will have to redact Social Security numbers on government records before these records are provided to the public.

Thus, enterprising identity thieves no longer can scour bankruptcy records, liens, marriage certificates, or other public documents to steal Social Security Numbers.

Moreover, State governments will no longer be permitted to use the Social Security number as the default driver's license number.

The legislation, however, recognizes that some industries, like banks, rely on Social Security Numbers to exchange information between databases and complete identification verification necessary for certain transactions.

It permits the sale or purchase of Social Security Numbers to facilitate business-to-business transactions so long as businesses put appropriate safeguards in place and do not permit public access to the number.

Some critics of privacy legislation argue it will impede commerce. I disagree. A reasonable baseline of privacy laws will stimulate commerce. On the Internet, for example, fear of identity theft has impeded consumer transactions.

One study of e-commerce estimates consumer privacy fears prevented up to $2.8 billion in online retail sales in 1999. Another study suggests that, by 2002, over $18 billion of lost sales can be attributed to consumer privacy concerns.

This legislation codifies steps Congress can take to protect citizens from identity thieves and other predators of personal information.

It restores to individuals more control over their most sensitive personal information such as Social Security numbers, driver's license information, health information, and financial information.

The legislation sets reasonable guidelines for businesses that handle our personal information every day, like credit card companies, hospitals, and banks.

Our Nation is rushing toward an information economy that will yield unprecedented economic efficiencies.

The commercial benefits of the new economy are unquestionable. But, in our rush to embrace the new, we must remember to protect the core Democratic values on which our country depends.

Every American has a fundamental right to privacy, no matter how fast our technology grows or changes.

But our right to privacy only will remain vital, if we take strong action to protect it.

I look forward to working with my colleagues to enact the Privacy Act of 2001.

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. 1055

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Privacy Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMERCIAL SALE AND MARKETING OF PERSONALLY IDENTIFIABLE INFORMATION

Sec. 101. Collection and distribution of personally identifiable information.
Sec. 102. Enforcement.
Sec. 103. Safe harbor.
Sec. 104. Definitions.
Sec. 105. Preemption.
Sec. 106. Effective Date.

TITLE II—LIMITATIONS ON USE OF SOCIAL SECURITY NUMBERS

Sec. 201. Findings.
Sec. 202. Prohibition of the display, sale, or purchase of social security numbers.
Sec. 203. No prohibition with respect to public records.
Sec. 204. Rulemaking authority of the Attorney General.
Sec. 205. Treatment of social security numbers on government documents.
Sec. 206. Limits on personal disclosure of a social security number for consumer transactions.
Sec. 207. Extension of civil monetary penalties for misuse of a social security number.

TITLE III—LIMITATIONS ON SALE AND SHARING OF NONPUBLIC PERSONAL FINANCIAL INFORMATION

Sec. 301. Definition of sale.
Sec. 302. Rules applicable to sale of nonpublic personal information.
Sec. 303. Exceptions to sale prohibition.
Sec. 304. Effective date.

TITLE IV—LIMITATIONS ON THE PROVISION OF PROTECTED HEALTH INFORMATION

Sec. 401. Definitions.
Sec. 402. Prohibition against selling protected health information.
Sec. 403. Authorization for sale of protected health information.
Sec. 404. Prohibition against retaliation.
Sec. 405. Prohibition against marketing protected health information.
Sec. 406. Rule of construction.
Sec. 407. Regulations.
Sec. 408. Enforcement.

TITLE V—DRIVER'S LICENSE PRIVACY

Sec. 501. Driver's license privacy.

TITLE VI—MISCELLANEOUS

Sec. 601. Enforcement by State Attorneys General.
Sec. 602. Federal injunctive authority.

TITLE I—COMMERCIAL SALE AND MARKETING OF PERSONALLY IDENTIFIABLE INFORMATION

SEC. 101. COLLECTION AND DISTRIBUTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) PROHIBITION.—

(1) IN GENERAL.—It is unlawful for a commercial entity to collect personally identifiable information and disclose such information to any nonaffiliated third party for marketing purposes or sell such information to any nonaffiliated third party, unless the commercial entity provides—

(A) notice to the individual to whom the information relates in accordance with the requirements of subsection (b); and

(B) an opportunity for such individual to restrict the disclosure or sale of such information.

(2) EXCEPTION.—A commercial entity may collect personally identifiable information and use such information to market to potential customers such entity's product.

(b) NOTICE.—

(1) IN GENERAL.—A notice under subsection (a) shall contain statements describing the following:

(A) The identity of the commercial entity collecting the personally identifiable information.

(B) The types of personally identifiable information that are being collected on the individual.

(C) How the commercial entity may use such information.

(D) A description of the categories of potential recipients of such personally identifiable information.

(E) Whether the individual is required to provide personally identifiable information in order to do business with the commercial entity.

(F) How an individual may decline to have such personally identifiable information used or sold as described in subsection (a).

(2) TIME OF NOTICE.—Notice shall be conveyed prior to the sale or use of the personally identifiable information as described in subsection (a) in such a manner as to allow the individual a reasonable period of time to consider the notice and limit such sale or use.

(3) MEDIUM OF NOTICE.—The medium for providing notice must be—

(A) the same medium in which the personally identifiable information is or will be collected, or a medium approved by the individual; or

(B) in the case of oral communication, notice may be conveyed orally or in writing.

(4) FORM OF NOTICE.—The notice shall be clear and conspicuous.

(c) OPT-OUT.—

(1) OPPORTUNITY TO OPT-OUT OF SALE OR MARKETING.—The opportunity provided to limit the sale of personally identifiable information to nonaffiliated third parties or the disclosure of such information for marketing purposes, shall be easy to use, accessible and available in the medium the information is collected, or in a medium approved by the individual.

(2) DURATION OF LIMITATION.—An individual's limitation on the sale or marketing of personally identifiable information shall be considered permanent, unless otherwise specified by the individual.

(3) REVOCATION OF CONSENT.—After an individual grants consent to the use of that individual's personally identifiable information, the individual may revoke the consent at any time, except to the extent that the commercial entity has taken action in reliance thereon. The commercial entity shall provide the individual an opportunity to revoke consent that is easy to use, accessible, and available in the medium the information was or is collected.

(4) NOT APPLICABLE.—This section shall not apply to disclosure of personally identifiable information—

(A) that is necessary to facilitate a transaction specifically requested by the consumer;

(B) is used for the sole purpose of facilitating this transaction; and

(C) in which the entity receiving or obtaining such information is limited, by contract, to use such formation for the purpose of completing the transaction.

SEC. 102. ENFORCEMENT.

(a) IN GENERAL.—In accordance with the provisions of this section, the Federal Trade Commission shall have the authority to enforce any violation of section 101 of this Act.

(b) VIOLATIONS.—The Federal Trade Commission shall treat a violation of section 101 as a violation of a rule under section 18a(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(c) TRANSFER OF ENFORCEMENT AUTHORITY.—The Federal Trade Commission shall promulgate rules in accordance with section 553 of title 5, United States Code, allowing for the transfer of enforcement authority from the Federal Trade Commission to a Federal agency regarding section 101 of this Act. The Federal Trade Commission may permit a Federal agency to enforce any violation of section 101 if such agency submits a written request to the Commission to enforce such violations and includes in such request—

(1) a description of the entities regulated by such agency that will be subject to the provisions of section 101;

(2) an assurance that such agency has sufficient authority over the entities to enforce violations of section 101; and

(3) a list of proposed rules that such agency shall use in regulating such entities and enforcing section 101.

(d) ACTIONS BY THE COMMISSION.—Absent transfer of enforcement authority to a Federal agency under subsection (c), the Federal Trade Commission shall prevent any person from violating section 101 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as provided to such Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Any entity that violates section 101 is subject to the penalties and entitled to the privileges and immunities provided in such Act in the same manner, by the same means, and with the same jurisdiction, power, and duties under such Act.

(e) RELATIONSHIP TO OTHER LAWS.—

(1) COMMISSION AUTHORITY.—Nothing contained in this title shall be construed to limit authority provided to the Commission under any other law.

(2) COMMUNICATIONS ACT.—Nothing in section 101 requires an operator of a website to take any action that is inconsistent with the requirements of section 222 or 631 of the Communications Act of 1934 (47 U.S.C. 222 and 5551).

(3) OTHER ACTS.—Nothing in this title is intended to affect the applicability or the enforceability of any provision of, or any amendment made by—

(A) the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.);

(B) title V of the Gramm-Leach-Bliley Act;

(C) the Health Insurance Portability and Accountability Act of 1996; or

(D) the Fair Credit Reporting Act.

(f) PUBLIC RECORDS.—Nothing in this title shall be construed to restrict commercial entities from obtaining or disclosing personally identifying information from public records.

(g) CIVIL PENALTIES.—In addition to any other penalty applicable to a violation of section 101(a), a penalty of up to $25,000 may be issued for each violation.

(h) ENFORCEMENT REGARDING PROGRAMS.—

(1) IN GENERAL.—A Federal agency or department providing financial assistance to any entity required to comply with section 101 of this Act shall issue regulations requiring that such entity comply with such section or forfeit some or all of such assistance. Such regulations shall prescribe sanctions for noncompliance, require that such department or agency provide notice of failure to comply with such section prior to any action being taken against such recipient, and require that a determination be made prior to any action being taken against such recipient that compliance cannot be secured by voluntary means.

(2) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' means assistance through a grant, cooperative agreement, loan, or contract other than a contract of insurance or guaranty.

SEC. 103. SAFE HARBOR.

A commercial entity may not be held to have violated any provision of this title if such entity complies with self-regulatory guidelines that—

''(1) are issued by seal programs or representatives of the marketing or online industries or by any other person; and

''(2) are approved by the Federal Trade Commission, after public comment has been received on such guidelines by the Commission, as meeting the requirements of this title.

SEC. 104. DEFINITIONS.

In this title:

(1) COMMERCIAL ENTITY.—The term ''commercial entity''—

(A) means any person offering products or services involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; and

(B) does not include—

(i) any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(ii) any financial institution that is subject to title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); or

(iii) any group health plan, health insurance issuer, or other entity that is subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 201 note).

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) INDIVIDUAL.—The term ''individual'' means a person whose personally identifying information has been, is, or will be collected by a commercial entity.

(4) MARKETING.—The term ''marketing'' means to make a communication about a product or service a purpose of which is to encourage recipients of the communication to purchase or use the product or service.

(5) MEDIUM.—The term ''medium'' means any channel or system of communication including oral, written, and online communication.

(6) NONAFFILIATED THIRD PARTY.—The term ''nonaffiliated third party'' means any entity that is not related by common ownership or affiliated by corporate control with, the commercial entity, but does not include a joint employee of such institution.

(7) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means individually identifiable information about the individual that is collected including—

(A) a first, middle, or last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address, including the street name, zip code, and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a photograph or other form of visual identification;

(F) a birth date, birth certificate number, or place of birth for that person; or

(G) information concerning the individual that is combined with any other identifier in this paragraph.

(8) SALE; SELL; SOLD.—The terms ''sale'', ''sell'', and ''sold'', with respect to personally identifiable information, mean the exchanging of such information for any thing of value, directly or indirectly, including the licensing, bartering, or renting of such information.

(9) WRITING.—The term ''writing'' means writing in either a paper-based or computer-based form, including electronic and digital signatures.

SEC. 105. PREEMPTION.

The provisions of this title shall supersede any statutory and common law of States and their political subdivisions insofar as that law may now or hereafter relate to the—

(1) collection and disclosure of personally identifiable information for marketing purposes; and

(2) collection and sale of personally identifiable information.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE II—LIMITATIONS ON USE OF SOCIAL SECURITY NUMBERS

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of social security numbers has contributed to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used social security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a social security number in order to pay taxes, to qualify for

social security benefits, or to seek employment. An unintended consequence of these requirements is that social security numbers have become tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of this system.

(4) A social security number does not contain, reflect, or convey any publicly significant information or concern any public issue. The display, sale, or purchase of such numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of social security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act offers each individual that has been assigned a social security number necessary protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 202. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028 the following:

"§ 1028A. Prohibition of the display, sale, or purchase of social security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's social security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a social security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a social security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

''(b) LIMITATION ON DISPLAY.—Except as provided in section 1028B, no person may display any individual's social security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's social security number without the affirmatively expressed consent of the individual.

''(d) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's social security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

''(e) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's social security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(f) EXCEPTIONS.—

''(1) IN GENERAL.—Except as provided in subsection (d), nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a social security number—

''(A) permitted, required, or excepted, expressly or by implication, under section 205(c)(2), 1124A(a)(3), or 1141(c) of the Social Security Act (42 U.S.C. 405(c)(2), 1320a–3a(a)(3), and 1320b–11(c)), section 7(a)(2) of the Privacy Act of 1974 (5 U.S.C. 552a note), section 6109(d) of the Internal Revenue Code of 1986, or section 6(b)(1) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6305(b)(1));

''(B) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(C) for a national security purpose;

''(D) for a law enforcement purpose, including the investigation of fraud, as required under subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), and the enforcement of a child support obligation;

''(E) if the display, sale, or purchase of the number is for a business-to-business use, including, but not limited to—

''(i) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(ii) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, and volunteers;

''(iii) compliance with any requirement related to the social security program established under title II of the Social Security Act (42 U.S.C. 401 et seq.); or

''(iv) the retrieval of other information from, or by, other businesses, commercial enterprises, or private nonprofit organizations,

except that, nothing in this subparagraph shall be construed as permitting a professional or commercial user to display or sell a social security number to the general public;

''(F) if the transfer of such a number is part of a data matching program under the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a note) or any similar computer data matching program involving a Federal, State, or local agency; or

''(G) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program.

''(g) CIVIL ACTION IN UNITED STATES DISTRICT COURT; DAMAGES; ATTORNEY'S FEES AND COSTS.—

''(1) IN GENERAL.—Any individual aggrieved by any act of any person in violation of this section may bring a civil action in a United States district court to recover—

''(A) such preliminary and equitable relief as the court determines to be appropriate; and

''(B) the greater of—

''(i) actual damages;

''(ii) liquidated damages of $2,500; or

''(iii) in the case of a violation that was willful and resulted in profit or monetary gain, liquidated damages of $10,000.

''(2) STATUTE OF LIMITATIONS.—No action may be commenced under this subsection more than 3 years after the date on which the violation was or should reasonably have been discovered by the aggrieved individual.

''(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedy available to the individual.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any person who the Attorney General determines has violated this section shall be subject, in addition to any other penalties that may be prescribed by law—

''(A) to a civil penalty of not more than $5,000 for each such violation; and

''(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

''(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the social security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

''(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028A. Prohibition of the display, sale, or purchase of social security numbers.''.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following new paragraphs:

''(9) except as provided in paragraph (5) of section 1028A(a) of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in paragraph (1) of such section) any individual's social security number (as defined in such paragraph) without the affirmatively expressed consent of that individual after having met the prerequisites for consent under paragraph (4) of such section, electronically or in writing, with respect to that individual; or

''(10) obtains any individual's social security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

(c) EFFECTIVE DATE.—Section 1028A of title 18, United States Code (as added by subsection (a)), and section 208 of the Social Security Act (42 U.S.C. 408) (as amended by subsection (b)) shall take effect 30 days after the date on which the final regulations promulgated under section 204(b) are published in the Federal Register.

SEC. 203. NO PROHIBITION WITH RESPECT TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section

202(a)(1)), is amended by inserting after section 1028A the following:

"§ 1028B. No prohibition of the display, sale, or purchase of social security numbers included in public records

''(a) IN GENERAL.—Nothing in section 1028A shall be construed to prohibit or limit the display, sale, or purchase of any public record which includes a social security number that—

''(1) is incidentally included in a public record, as defined in subsection (d);

''(2) is intended to be purchased, sold, or displayed pursuant to an exception contained in section 1028A(f);

''(3) is intended to be purchased, sold, or displayed pursuant to the consent provisions of subsections (b), (c), and (e) of section 1028A; or

''(4) includes a redaction of the nonincidental occurrences of the social security numbers when sold or displayed to members of the general public.

''(b) AGENCY REQUIREMENTS.—Each agency in possession of documents that contain social security numbers which are nonincidental, shall, with respect to such documents—

''(1) ensure that access to such numbers is restricted to persons who may obtain them in accordance with applicable law;

''(2) require an individual who is not exempt under section 1028A(f) to provide the social security number of the person who is the subject of the document before making such document available; or

''(3) redact the social security number from the document prior to providing a copy of the requested document to an individual who is not exempt under section 1028A(f) and who is unable to provide the social security number of the person who is the subject of the document.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be used as a basis for permitting or requiring a State or local government entity or other repository of public documents to expand or to limit access to documents containing social security numbers to entities covered by the exception in section 1028A(f).

''(d) DEFINITIONS.—In this section:

''(1) INCIDENTAL.—The term 'incidental' means that the social security number is not routinely displayed in a consistent and predictable manner on the public record by a government entity, such as on the face of a document.

''(2) PUBLIC RECORD.—The term 'public record' means any item, collection, or grouping of information about an individual that is maintained by a Federal, State, or local government entity and that is made available to the public.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 202(a)(2)), is amended by inserting after the item relating to section 1028A the following:

''1028B. No prohibition of the display, sale, or purchase of social security numbers included in public records.''.

SEC. 204. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 202.

(b) BUSINESS-TO-BUSINESS COMMERCIAL DISPLAY, SALE, OR PURCHASE RULEMAKING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Federal Trade Commission, and such other Federal agencies as the Attorney General determines appropriate, may conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and clarify the business-to-business provisions pertaining to section 1028A(f)(1)(E) of title 18, United States Code (as added by section 202(a)(1)). The Attorney General shall consult with other agencies to ensure, where possible, that these provisions are consistent with other privacy laws, including title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.).

(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following factors:

(A) The benefit to a particular business practice and to the general public of the sale or purchase of an individual's social security number.

(B) The risk that a particular business practice will promote the use of the social security number to commit fraud, deception, or crime.

(C) The presence of adequate safeguards to prevent the misappropriation of social security numbers by the general public, while permitting internal business uses of such numbers.

(D) The implementation of procedures to prevent identity thieves, stalkers, and others with ill intent from posing as legitimate businesses to obtain social security numbers.

SEC. 205. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

''(x) No Federal, State, or local agency may display the social security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF APPEARANCE OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATION.—

(1) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

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

''(II)(aa) An agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not disclose the social security account numbers issued by the Commissioner of Social Security, or any derivative of such numbers, on any driver's license or motor vehicle registration or any other document issued by such State (or political subdivision thereof) to an individual for purposes of identification of such individual.

''(bb) Nothing in this subclause shall be construed as precluding an agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, from using a social security account number for an internal use or to link with the database of an agency of another State that is responsible for the administration of any driver's license or motor vehicle registration law.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to licenses, registrations, and other documents issued or reissued after the date that is 1 year after the date of enactment of this Act.

(c) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following new clause:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SEC. 206. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

''(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's social security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

''(1) for any purpose relating to—

''(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

''(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

''(C) law enforcement; or

''(D) a Federal or State law requirement; or

''(2) if the social security number is necessary to verify identity and to prevent fraud with respect to the specific transaction requested by the consumer and no other form of identification can produce comparable information.

''(b) OTHER FORMS OF IDENTIFICATION.—Nothing in this section shall be construed to prohibit a commercial entity from—

''(1) requiring an individual to provide 2 forms of identification that do not contain the social security number of the individual; or

''(2) denying an individual a good or service for refusing to provide 2 forms of identification that do not contain such number.

''(c) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a)(3)(F).

''(d) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a social security number made on or after the date of enactment of this Act.

SEC. 207. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following new paragraphs:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(2) makes such a statement or representation for such use with knowing disregard for the truth; or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to''.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

''(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to display, sell, or purchase it;

''(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the social security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number; or

''(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C)

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date under section 202(c).

TITLE III—LIMITATIONS ON SALE AND SHARING OF NONPUBLIC PERSONAL FINANCIAL INFORMATION

SEC. 301. DEFINITION OF SALE.

Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following:

''(12) SALE.—The terms 'sale', 'sell', and 'sold', with respect to nonpublic personal information, mean the exchange of such information for any thing of value, directly or indirectly, including the licensing, bartering, or renting of such information.''.

SEC. 302. RULES APPLICABLE TO SALE OF NONPUBLIC PERSONAL INFORMATION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(1) in the section heading, by inserting ''and sales'' after ''disclosures'';

(2) in subsection (a), by inserting ''or sell'' after ''disclose'';

(3) in subsection (b)—

(A) in the heading, by inserting ''FOR CERTAIN DISCLOSURES'' before the period; and

(B) by adding at the end the following:

''(3) LIMITATION.—Paragraphs (1) and (2) do not apply to the sale of nonpublic personal information.'';

(4) by striking subsection (e);

(5) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(6) by inserting after subsection (b) the following:

''(c) OPT-IN FOR SALE OF INFORMATION.—

''(1) AFFIRMATIVE CONSENT REQUIRED.—Each agency or authority described in section 504(a) shall, by rule prescribed under that section, prohibit a financial institution that is subject to its jurisdiction from selling any nonpublic personal information to any nonaffiliated third party, unless the consumer to whom the information pertains—

''(A) has affirmatively consented in accordance with such rule to the sale of such information; and

''(B) has not withdrawn the consent.

''(2) DENIAL OF SERVICE PROHIBITED.—The rule prescribed pursuant to paragraph (1) shall prohibit a financial institution from denying any consumer a financial product or a financial service for the refusal by the consumer to grant the consent required by such rule.''.

SEC. 303. EXCEPTIONS TO SALE PROHIBITION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802), as amended by this title, is amended by adding at the end the following:

''(f) GENERAL EXCEPTIONS.—This section does not prohibit—

''(1) the sale or other disclosure of nonpublic personal information to a nonaffiliated third party—

''(A) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer to whom the information pertains, or in connection with—

''(i) servicing or processing a financial product or service requested or authorized by the consumer;

''(ii) maintaining or servicing the account of the consumer with the financial institution, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

''(iii) a proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer;

''(B) with the consent or at the direction of the consumer, in accordance with applicable rules prescribed under this subtitle;

''(C) to the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978; or

''(D) to law enforcement agencies (including a Federal functional regulator, the Secretary of the Treasury, with respect to subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), a State insurance authority, or the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety; or

''(2) the disclosure, other than the sale, of nonpublic personal information—

''(A) to protect the confidentiality or security of the records of the financial institution pertaining to the consumer, the service or product, or the transaction therein;

''(B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

''(C) for required institutional risk control, or for resolving customer disputes or inquiries;

''(D) to persons holding a legal or beneficial interest relating to the consumer;

''(E) to persons acting in a fiduciary or representative capacity on behalf of the consumer;

''(F) to provide information to insurance rate advisory organizations, guaranty funds or agencies, applicable rating agencies of the financial institution, persons assessing the compliance of the institution with industry standards, or the attorneys, accountants, or auditors of the institution;

''(G) to a consumer reporting agency, in accordance with the Fair Credit Reporting Act or from a consumer report reported by a consumer reporting agency, as those terms are defined in that Act;

''(H) in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit;

''(I) to comply with Federal, State, or local laws, rules, or other applicable legal requirements, or with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or

''(J) to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes, as authorized by law.''.

SEC. 304. EFFECTIVE DATE.

This title shall take effect 6 months after the date on which the rules are required to be prescribed under section 504(a)(3).

TITLE IV—LIMITATIONS ON THE PROVISION OF PROTECTED HEALTH INFORMATION

SEC. 401. DEFINITIONS.

In this title:

(1) BUSINESS ASSOCIATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''business associate'' means, with respect to a covered entity, a person who—

(i) on behalf of such covered entity or of an organized health care arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of—

(I) a function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or

(II) any other function or activity regulated under parts 160 through 164 of title 45, Code of Federal Regulations; or

(ii) provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized health care arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(B) LIMITATIONS.—

(i) IN GENERAL.—A covered entity participating in an organized health care arrangement that performs a function or activity as described by subparagraph (A)(i) for or on behalf of such organized health care arrangement, or that provides a service as described in subparagraph (A)(ii) to or for such organized health care arrangement, does not, simply through the performance of such function or activity or the provision of such service, become a business associate of other covered entities participating in such organized health care arrangement.

(ii) LIMITATION.—A covered entity may be a business associate of another covered entity.

(2) COVERED ENTITY.—The term ''covered entity'' means—

(A) a health plan;

(B) a health care clearinghouse; and

(C) a health care provider who transmits any health information in electronic form in connection with a transaction covered by parts 160 through 164 of title 45, Code of Federal Regulations.

(3) DISCLOSURE.—The term ''disclosure'' means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

(4) EMPLOYER.—The term ''employer'' means a person or organization for whom an individual performs or has performed any service, of whatever nature, as the employee of that person or organization, except that—

(A) if the person for whom the individual performs or has performed the service does not have control of the payment of wages for such service, the term ''employer'' means the person having control of the payment of those wages; and

(B) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term ''employer'' means that person.

(5) GROUP HEALTH PLAN.—The term ''group health plan'' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1002(1)), including insured and self-insured plans, to the extent that the plan provides medical care (as defined in section 2791(a)(2) of the Public Health Service Act, 42 U.S.C. 300gg–91(a)(2)), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise, that—

(A) has 50 or more participants (as defined in section 3(7) of Employee Retirement Income and Security Act of 1974, 29 U.S.C. 1002(7)); or

(B) is administered by an entity other than the employer that established and maintains the plan.

(6) HEALTH CARE.—The term ''health care'' means care, services, or supplies related to the health of an individual, including—

(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling services, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

(B) a sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

(7) HEALTH CARE CLEARINGHOUSE.—The term ''health care clearinghouse'' means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and value-added networks and switches, that—

(A) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or

(B) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

(8) HEALTH CARE PROVIDER.—The term ''health care provider'' has the same meaning given the terms ''provider of services'' and ''provider of medical or health services'' in subsections (u) and (s) of section 1861 of the Social Security Act (42 U.S.C. 1395x), and includes any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

(9) HEALTH INFORMATION.—The term ''health information'' means any information, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

(B) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

(10) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' means a health insurance issuer (as defined in section 2791(b)(2) of the Public Health Service Act, 42 U.S.C. 300gg–91(b)(2)) and used in the definition of health plan in this section and includes an insurance company, insurance service, or insurance organization (including an HMO) that is licensed to engage in the business of insurance in a State and is subject to State law that regulates insurance. Such term does not include a group health plan.

(11) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' (HMO) (as defined in section 2791(b)(3) of the Public Health Service Act, 42 U.S.C. 300gg–91 (b)(3)) and used in the definition of health plan in this section, means a federally qualified HMO, an organization recognized as an HMO under State law, or a similar organization regulated for solvency under State law in the same manner and to the same extent as such an HMO.

(12) HEALTH OVERSIGHT AGENCY.—The term ''health oversight agency'' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

(13) HEALTH PLAN.—The term ''health plan'' means an individual or group plan that provides, or pays the cost of, medical care, as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(2))—

(A) including, singly or in combination—

(i) a group health plan;

(ii) a health insurance issuer;

(iii) an HMO;

(iv) part A or B of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(v) the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(vi) an issuer of a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. 1395ss(g)(1));

(vii) an issuer of a long-term care policy, excluding a nursing home fixed-indemnity policy;

(viii) an employee welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers;

(ix) the health care program for active military personnel under title 10, United States Code;

(x) the veterans health care program under chapter 17 of title 38, United States Code;

(xi) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) (as defined in section 1072(4) of title 10, United States Code);

(xii) the Indian Health Service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

(xiii) the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code;

(xiv) an approved State child health plan under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), providing benefits for child health assistance that meet the requirements of section 2103 of such Act (42 U.S.C. 1397cc);

(xv) the Medicare+Choice program under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.);

(xvi) a high risk pool that is a mechanism established under State law to provide health insurance coverage or comparable coverage to eligible individuals; and

(xvii) any other individual or group plan, or combination of individual or group plans, that provides or pays for the cost of medical care (as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(2)); and

(B) excluding—

(i) any policy, plan, or program to the extent that it provides, or pays for the cost of, excepted benefits that are listed in section 2791(c)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(c)(1); and

(ii) a government-funded program (other than 1 listed in clause (i) through (xvi) of paragraph (1)), whose principal purpose is other than providing, or paying the cost of, health care, or whose principal activity is the direct provision of health care to persons, or the making of grants to fund the direct provision of health care to persons.

(14) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term ''individually identifiable health information'' means information that is a subset of health information, including demographic information collected from an individual, that—

(A) is created or received by a covered entity or employer; and

(B)(i) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

(ii)(I) identifies an individual; or

(II) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

(15) LAW ENFORCEMENT OFFICIAL.—The term ''law enforcement official'' means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to—

(A) investigate or conduct an official inquiry into a potential violation of law; or

(B) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

(16) LIFE INSURER.—The term ''life insurer'' means a life insurance company (as defined in section 816 of the Internal Revenue Code of 1986), including the employees and agents of such company.

(17) MARKETING.—

(A) IN GENERAL.—The term ''marketing'' means to make a communication about a product or service a purpose of which is to encourage recipients of the communication to purchase or use the product or service.

(B) LIMITATION.—Such term does not include communications that meet the requirements of subparagraph (C) and that are made by a covered entity—

(i) for the purpose of describing the entities participating in a health care provider network or health plan network, or for the purpose of describing if and the extent to which a product or service (or payment for such product or service) is provided by a covered entity or included in a plan of benefits; or

(ii) that are tailored to the circumstances of a particular individual and the communications are—

(I) made by a health care provider to an individual as part of the treatment of the individual, and for the purpose of furthering the treatment of that individual; or

(II) made by a health care provider to an individual in the course of managing the treatment of that individual, or for the purpose of directing or recommending to that individual alternative treatments, therapies, health care providers, or settings of care.

(C) NOT INCLUDED.—A communication described in subparagraph (B) is not included in marketing if—

(i) the communication is made orally; or

(ii) the communication is in writing and the covered entity does not receive direct or indirect remuneration from a third party for making the communication.

(18) NONCOVERED ENTITY.—

(A) IN GENERAL.—The term ''noncovered entity'' means any person or public or private entity, including but not limited to a health researcher, school or university, life insurer, employer, public health authority, health oversight agency, or law enforcement official, or any person acting as an agent of such entities or persons, that is not a covered entity.

(B) LIMITATION.—The term ''noncovered entity'' includes a covered entity if such covered entity is acting as a business associate.

(19) ORGANIZED HEALTH CARE ARRANGEMENT.—The term ''organized health care arrangement'' means—

(A) a clinically integrated care setting in which individuals typically receive health care from more than 1 health care provider;

(B) an organized system of health care in which more than 1 covered entity participates, and in which the participating covered entities—

(i) hold themselves out to the public as participating in a joint arrangement; and

(ii) participate in joint activities including at least—

(I) utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or by a third party on their behalf;

(II) quality assessment and improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or

(III) payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk;

(C) a group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or who have been participants or beneficiaries in such group health plan;

(D) a group health plan and 1 or more other group health plans each of which are maintained by the same plan sponsor; or

(E) the group health plans described in subparagraph (D) and health insurance issuers or HMOs with respect to such group health plans, but only with respect to protected health information created or received by such health insurance issuers or HMOs that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.

(20) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' means individually identifiable health information that is in any form or medium. The term does not include individually identifiable health information in education records covered by section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(21) PUBLIC HEALTH AUTHORITY.—The term ''public health authority'' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

(22) SCHOOL OR UNIVERSITY.—The term ''school or university'' means an institution or place for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under 1 corporate organization or government.

(23) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(24) SALE; SELL; SOLD.—The terms ''sale'', ''sell'', and ''sold'', with respect to protected health information, mean the exchange of

such information for anything of value, directly or indirectly, including the licensing, bartering, or renting of such information.

(25) USE.—The term ''use'' means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

(26) WRITING.—The term ''writing'' means writing in either a paper-based or computer-based form, including electronic and digital signatures.

SEC. 402. PROHIBITION AGAINST SELLING PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—A noncovered entity shall not sell the protected health information of an individual without an authorization that is valid under section 403. When a noncovered entity obtains or receives authorization to sell such information, such sale must be consistent with such authorization.

(b) SCOPE.—A sale of protected health information as described under subsection (a) shall be limited to the minimum amount of information necessary to accomplish the purpose for which the sale is made.

(c) PURPOSE.—A recipient of information sold pursuant to this title may use or disclose such information solely to carry out the purpose for which the information was sold.

(d) NOT REQUIRED.—Nothing in this title permitting the sale of protected health information shall be construed to require such sale.

(e) IDENTIFICATION OF INFORMATION AS PROTECTED HEALTH INFORMATION.—Information sold pursuant to this title shall be clearly identified as protected health information.

(f) NO WAIVER.—Except as provided in this title, an individual's authorization to sell protected health information shall not be construed as a waiver of any rights that the individual has under other Federal or State laws, the rules of evidence, or common law.

SEC. 403. AUTHORIZATION FOR SALE OF PROTECTED HEALTH INFORMATION.

(a) VALID AUTHORIZATION.—A valid authorization is a document that complies with all requirements of this section. Such authorization may include additional information not required under this section, provided that such information is not inconsistent with the requirements of this section.

(b) DEFECTIVE AUTHORIZATION.—An authorization is not valid, if the document submitted has any of the following defects:

(1) The expiration date has passed or the expiration event is known by the noncovered entity to have occurred.

(2) The authorization has not been filled out completely, with respect to an element described in subsections (e) and (f).

(3) The authorization is known by the noncovered entity to have been revoked.

(4) The authorization lacks an element required by subsections (e) and (f).

(5) Any material information in the authorization is known by the noncovered entity to be false.

(c) REVOCATION OF AUTHORIZATION.—An individual may revoke an authorization provided under this section at any time provided that the revocation is in writing, except to the extent that the noncovered entity has taken action in reliance thereon.

(d) DOCUMENTATION.—

(1) IN GENERAL.—A noncovered entity must document and retain any signed authorization under this section as required under paragraph (2).

(2) STANDARD.—A noncovered entity shall, if a communication is required by this title to be in writing, maintain such writing, or an electronic copy, as documentation.

(3) RETENTION PERIOD.—A noncovered entity shall retain the documentation required by this section for 6 years from the date of its creation or the date when it last was in effect, whichever is later.

(e) CONTENT OF AUTHORIZATION.—

(1) CONTENT.—An authorization described in subsection (a) shall—

(A) contain a description of the information to be sold that identifies such information in a specific and meaningful manner;

(B) contain the name or other specific identification of the person, or class of persons, authorized to sell the information;

(C) contain the name or other specific identification of the person, or class of persons, to whom the information is to be sold;

(D) include an expiration date or an expiration event relating to the selling of such information that signifies that the authorization is valid until such date or event;

(E) include a statement that the individual has a right to revoke the authorization in writing and the exceptions to the right to revoke, and a description of the procedure involved in such revocation;

(F) be in writing and include the signature of the individual and the date, or if the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual; and

(G) include a statement explaining the purpose for which such information is sold.

(2) PLAIN LANGUAGE.—The authorization shall be written in plain language.

(f) NOTICE.—

(1) IN GENERAL.—The authorization shall include a statement that the individual may—

(A) inspect or copy the protected health information to be sold; and

(B) refuse to sign the authorization.

(2) COPY TO THE INDIVIDUAL.—A noncovered entity shall provide the individual with a copy of the signed authorization.

(g) MODEL AUTHORIZATIONS.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in this section and model statements of the limitations on such authorizations. Any authorization obtained on a model authorization form developed by the Secretary pursuant to the preceding sentence shall be deemed to satisfy the requirements of this section.

(h) NONCOERCION.—A covered entity or noncovered entity shall not condition the purchase of a product or the provision of a service to an individual based on whether such individual provides an authorization to such entity as described in this section.

SEC. 404. PROHIBITION AGAINST RETALIATION.

A noncovered entity that collects protected health information, may not adversely affect another person, directly or indirectly, because such person has exercised a right under this title, disclosed information relating to a possible violation of this title, or associated with, or assisted, a person in the exercise of a right under this title.

SEC. 405. PROHIBITION AGAINST MARKETING PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, a covered entity or noncovered entity shall not use, disclose, or sell protected health information for marketing without an authorization that is valid under subsection (c), except as provided in subsection (b).

(b) EXCEPTION.—A health care provider may use or disclose protected health information for marketing without an authorization when it uses or discloses such information to make a marketing communication to an individual if the communication occurs in a face-to-face encounter between the health care provider and the individual.

(c) AUTHORIZATION.—

(1) IN GENERAL.—An authorization under subsection (a) shall—

(A) contain a description of the information to be used, disclosed, or sold that identifies such information in a specific and meaningful manner;

(B) contain the name or other specific identification of the person, or class of persons, authorized to use, disclose, or sell the information;

(C) identify persons to whom the information is to be provided or sold;

(D) include an expiration date or an expiration event relating to the use, disclosure, or sale of such information that signifies that the authorization is valid until such date or event;

(E) include a statement that the individual has a right to revoke the authorization in writing and that there are exceptions to the right to revoke, and a description of the procedure involved in such revocation;

(F) be in writing and include the signature of the individual and the date, or if the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual; and

(G) include a statement explaining the purpose for which such information is used, disclosed, or sold.

(2) PLAIN LANGUAGE.—The authorization must be written in plain language.

(d) NOTICE.—The authorization shall include a statement that the individual may—

(1) inspect or copy the protected health information to be marketed as provided under section 164.524 of title 45, Code of Federal Regulations (or a successor regulation); and

(2) refuse to sign the authorization.

(e) DOCUMENTATION.—A covered entity shall retain such documentation as required for any use, disclosure, or sale, as described under section 403(d).

(f) RESCISSION OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION REGULATION.—Effective as of December 28, 2000—

(1) section 164.514(e) of title 45, Code of Federal Regulations (relating to standards for uses and disclosures of protected health information for marketing), promulgated by the Secretary of Health and Human Services in the final rule entitled ''Standards for Privacy of Individually Identifiable Health Information'' (65 Fed. Reg. 82462 (December 28, 2000)) is void; and

(2) section 164.514 shall take effect as if subsection (e) of such section had not been included in the promulgation of the final regulation.

(g) NONCOERCION.—A covered entity or noncovered entity shall not condition the purchase of a product or the provision of a service to an individual based on whether such individual provides an authorization to such entity as described in this section.

SEC. 406. RULE OF CONSTRUCTION.

Except for the provisions of section 405, all requirements of this title shall not be construed to impose any additional requirements or in any way alter the requirements imposed upon covered entities under parts 160 through 164 of title 45, Code of Federal Regulations.

SEC. 407. REGULATIONS.

(a) IN GENERAL.—The Secretary shall promulgate regulations implementing the provisions of this title.

(b) TIMEFRAME.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish proposed regulations in the Federal Register. With regard to such proposed regulations, the Secretary shall provide an opportunity for submission of comments by interested persons during a period of not less than 90 days. Not later than

2 years after the date of enactment of this Act, the Secretary shall publish final regulations in the Federal Register.

SEC. 408. ENFORCEMENT.

(a) IN GENERAL.—A covered entity or noncovered entity that knowingly violates section 402 or 405 shall be subject to a civil money penalty under this section.

(b) AMOUNT.—The civil money penalty described in subsection (a) shall not exceed $100,000. In determining the amount of any penalty to be assessed, the Secretary shall take into account the previous record of compliance of the entity being assessed with the applicable provisions of this title and the gravity of the violation.

(c) ADMINISTRATIVE REVIEW.—

(1) OPPORTUNITY FOR HEARING.—The entity assessed shall be afforded an opportunity for a hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(2) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (d).

(d) JUDICIAL REVIEW.—

(1) FILING OF ACTION FOR REVIEW.—Any entity against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which such entity is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary.

(2) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

(3) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(4) APPEAL.—Any final decision, order, or judgment of the district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(e) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(1) FAILURE TO PAY ASSESSMENT.—If any entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(2) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this section shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

TITLE V—DRIVER'S LICENSE PRIVACY

SEC. 501. DRIVER'S LICENSE PRIVACY.

Section 2725 of title 18, United States Code, is amended by striking paragraphs (2) and (3) and adding the following:

''(2) 'person' means an individual, organization, or entity, but does not include a State or agency thereof;

''(3) 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, medical or disability information, any physical copy of a driver's license, birth date, information on physical characteristics, including height, weight, sex or eye color, or any biometric identifiers on a license, including a finger print, but not information on vehicular accidents, driving violations, and driver's status; and

''(4) 'highly restricted personal information' means an individual's photograph or image, social security number, medical or disability information, any physical copy of a driver's license, driver identification number, birth date, information on physical characteristics, including height, weight, sex, or eye color, or any biometric identifiers on a license, including a finger print.''.

TITLE VI—MISCELLANEOUS

SEC. 601. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under title I, II, or IV of this Act or under any amendment made by such a title, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with such titles or such amendments;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Attorney General intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under title I, II, IV, or V of this Act or under any amendment made by such a title, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 602. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this Act or under an amendment made by this Act, the Federal Government shall have injunctive authority with respect to any violation of any provision of title I, II, or IV of this Act or of any amendment made by such a title, without regard to whether a public or private entity violates such provision.

By Mrs. MURRAY (for herself, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Ms. LANDRIEU, Mr. SCHUMER):

S. 1056. A bill to authorize grants for community telecommunications infrastructure planning, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. MURRAY. Mr. President, I rise today to introduce legislation to help rural and underserved communities across the country get connected to the information economy.

Today I am introducing the Community Telecommunication Planning Act of 2001. I am proud to have Senators BOXER, LANDRIEU, KENNEDY, CANTWELL, and SCHUMER as original cosponsors. This bill will give small and rural communities a new tool to attract high speed services and economic development.

I am especially proud at how this legislation came about. Since last year, I've been working with a group of community leaders in Washington State to find ways to help communities get connected to advanced telecommunications services.

I want to take a moment to thank the members of my Rural Telecommunication Working Group for their hard work on this bill. The members include: Brent Bahrenburg, Gregg Caudell, Dee Christensen, Dave Danner, Louis Fox, Tami Garrow, Larry Hall, Rod Fleck, Ray King, Dale King, Terry Lawhead, Dick Llarman, Jim Miller, Joe Poire, Skye Richendrfer, Jim

Schmit, Fred Sexton, Ted Sprague, Barbara Tilly, Terry Vann, Ron Yenney.

We met as a working group, and we held forums around the State that attracted hundreds of people. We've tapped the ideas of experts, service providers and people from across the State who are working to get their communities connected. The result in this legislation, which I am proud to say is part of Washington State's contribution to our national effort to wire all parts of our country.

This bill addresses a real need in many communities. While urban and suburban areas have strong competition between telecommunications providers, many small and rural communities are far removed from the services they need. We must ensure that all communities have access to advanced telecommunications like high speed internet access. Just as yesterday's infrastructure was built of roads and bridges, today our infrastructure includes advanced telecom services. Advanced telecommunications can enrich our lives through activities like distance-learning, and they can even save lives through efforts like telemedicine. The key is access. Access to these services is already turning some small companies in rural communities into international marketers of goods and services.

Unfortunately, many small and rural communities are having trouble getting the access they need. Before areas can take advantage of some of the help and incentives that are out there, they need to work together and go through a community planning process. Community plans identify the needs and level of demand, create a vision for the future, and show what all the players must do to meet the telecom needs of their community for today and tomorrow. These plans take resources to develop. This bill would provide those funds.

Providers say they're more likely to invest in an area if it has a plan that makes a business case for the costly infrastructure investment. Communities want to provide them with that plan, but they need help developing it. Unfortunately, many communities get stuck on that first step. They don't have the resources to do the studies and planning required to attract service. So the members of my Working Group came up with a solution: have the federal government provide competitive grants that local communities can use to develop their plans. I took that idea and put it into this bill.

When you think about it, it just makes sense. Right now the federal government already provides money to help communities plan other infrastructure improvements—everything from roads and bridges to wastewater facilities. The bill would provide rural and underserved communities with grant money for creating community plans, technical assessments and other analytical work that needs to be done.

With these grants, communities will be able to turn their desire for access into real access that can improve their communities and strengthen their economies. This bill can open the door for thousands of small and rural areas across our state to tap the potential of the information economy. I urge the Senate to support this bill and I look forward to working with my colleagues to see it passed.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1067. A bill to authorize the addition of lands to Pu'uhonua o Honaunau National Historical Park in the State of Hawaii, and for other purposes; to the committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today along with my colleague Senator INOUYE to introduce legislation that is important for the people of Hawaii, for the National Park Service, and for the nation as a whole. I am offering legislation that would allow expansion of the boundaries of Pu'uhonua o Honaunau National Historical Park on the island of Hawaii by 238 acres. These lands are adjacent to and contiguous with the park's current boundaries.

Pu'uhonua o Honaunau National Historical Park preserves a site with great significance for Native Hawaiians, students of history, archaeologists, and the people of Hawaii in general. It is nestled along the coast of the island of Hawaii where, up until the early 19th century, Hawaiians who broke kapu or one of the ancient laws against the gods could avoid certain death by fleeing to this place of refuge or ''pu'uhonua.'' The offender would be absolved by a priest and freed to leave. Defeated warriors and non-combatants could also find refuge here during times of battle. The grounds just outside the wall that encloses the pu'uhonua were home to several generations of powerful chiefs. The 182-acre park was established in 1961 and includes the pu'uhonua and a complex of archeological areas including temple platforms, royal fishponds, holua (sledding tracks), and coastal village sites. The Haloe o Keawe temple and several other structures have been reconstructed to provide visitors an understanding of life during the early days of the royal families.

The park, on the famed Kona coast of the Big Island of Hawaii, is appreciated by Native Hawaiians and the general public as a place where the story and history of native culture are interpreted for all Americans. It is worth mentioning that the National Park Service oversees 384 units across the nation, including national parks, battlefields, military parks, memorials, monuments and historic trails. Of these nearly 400 sites, there are only a handful of national historic parks that celebrate interpretations of contemporary native cultures. I am pleased that two of these parks, Pu'uhonua o Honaunau and Kaloko-Honokohau, are in Hawaii on the Big Island. I invite you all to visit us for a truly remarkable immersion in Hawaiian cultural history, something very close to my heart.

The proposed expansion has national significance from an archaeological and historical perspective. The archeological resources are very important. They illustrate that the Ki'ilae village complex, with its numerous sites and features, represents one of the most complete assemblages of the coastal component of the ancient Kona field system. This system was not just an agricultural system utilized by the early Kona chiefs, it was a complex economic system that supported a dense population. Archaeological records have shown that this system allowed the Kona chiefs to become very powerful for a period of at least 200 years and most likely supported the growth and development of Kamehameha the Great's army and thereby contributed to his rise to power in the Hawaiian Islands. The cultural landscape here includes not only residential features, but also religious, agricultural and ceremonial sites. The unusually high number of heiau is believed to be an indication of the importance of this area to the Hawaiian ruling class.

Mr. President, the expansion of the park has widespread support from local communities and county officials. There is a long history of study and analysis of expansion possibilities for the park. The 1977 Master Plan for the Pu'uhonua o Honaunau National Historical Park originally proposed boundary expansions in four contiguous areas. Following the original master plan, in 1992 the National Park Service conducted a feasibility study for protecting adjacent lands through boundary expansions. Then in August of last year, given the notification of the recent land transaction between the McCandless Ranch and a private development corporation, the NPS prepared a special report on the proposed park expansion to include the Ki'ilae village parcel. The Service held three well-attended community meetings on the Big Island, with enthusiastic support for the expansion.

The 238-acre expansion authorized by this bill is the preferred option of the NPS, although additional acres could potentially be acquired. The Ki'ilae village property meets the criterion of national significance for historical and archaeological areas. The Trust for Public Land (TPL) is providing funds for the appraisal of the property, and has indicated an interest in helping facilitate the expansion of the park. The TPL financial assistance is a departure from their normal business practice, and they made the decision to commit the funds in recognition of the unique conservation values that this property presents for the National Park Service.

I submit for the RECORD a letter from Mayor Harry Kim of the County of Hawaii which shows the depth of public support and appreciation for the expansion, particularly from the Hawaiian

community. I ask unanimous consent that the letter and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1057

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pu'uhonau o Hōnaunau National Historical Park Addition Act of 2001''.

SEC. 2. ADDITIONS TO PU'UONAU O HŌNAUNAU NATIONAL HISTORICAL PARK.

The first section of the Act of July 26, 1955 (69 Stat. 376, ch. 385; 16 U.S.C. 397) is amended—

(1) by striking ''That when'' and inserting ''SECTION 1. (s) When''; and

(2) by adding at the end thereof the following new subsections:

''(b) The boundaries of Pu'uhonua o Hōnaunau National Historical Park are hereby modified to include approximately 238 acres of lands and interests therein within the area identified as ''Parcel A'' on the map entitled ''Pu'uhonua o Hōnaunau National Historical Park Proposed Boundary Additions, Ki'ilae Village'', numbered PUHO–P 415/82,013 and dated May, 2001.

''(c) The Secretary of the Interior is authorized to acquire approximately 159 acres of lands and interests therein within the area identified as ''Parcel B'' on the map referenced in subsection (b). Upon the acquisition of such lands or interests therein, the Secretary shall modify the boundaries of Pu'uhonua o Hōnaunau National Historical Park to include such lands or interests therein.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

COUNTY OF HAWAII,
Hilo, HI, May 16, 2001.

Hon. DANIEL AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: The purpose of this letter is to request that you seek Congressional authorization to expand the boundaries of Pu'u Honua O Hōnaunau National Park.

As I am sure you know, our local media have given a good deal of attention to a development proposed on 800 acres adjacent to Pu'u Honua O Hōnaunau. The community, particularly the Hawaiian community, has been outspoken in its desire to see this acreage preserved and the park enhanced. Numerous historic sites have been identified on this acreage, some or all related to the ancient Hawaiian village of Ki'ilae.

My staff has spoken with Ms. Geri Bell, Park Superintendent, and she has said that at least 238 acres (out of the 800) are closely linked to the park and associated with the village of Ki'ilae. Moreover, she has indicated that the owner of the land would willingly sell the 238 acres to the National Park. The next step is Congressional authorization.

The acquisition could be 238 acres, 800 acres, or something in between, and I would leave that determination to the experts to decide. However, your support for acquisition of at least the smaller portion would allow for a valuable addition to the park and assure preservation of an important part of our ancient Hawaiian heritage.

I fully support the expansion of the park by acquisition of this acreage, and hope you will let me know if there is any way in which I can be of assistance.

A similar letter has been sent to the other members of our Congressional delegation.

Aloha,

HARRY KIM,
Mayor.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 110—RELATING TO THE RETIREMENT OF SHARON ZELASKA, ASSISTANT SECRETARY OF THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 110

Whereas, on June 15, 2001, Sharon Zelaska will retire from service to the United States Senate as the Assistant Secretary of the Senate after 4½ years;

Whereas, previously Sharon rendered exemplary service to the federal government as a staff member in the House of Representatives for 11½ years and in the Executive Branch for 4 years;

Whereas, throughout these years, she has at all times discharged the difficult duties and responsibilities of her office with extraordinary grace, efficiency and devotion; and

Whereas, Sharon Zelaska's service to the Senate has been marked by her personal commitment to the highest standards of excellence to enable the Senate to function effectively: Now, therefore, be it

Resolved, That Sharon Zelaska be and hereby is commended for her outstanding service to her country and to the United States Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Sharon A. Zelaska.

SENATE RESOLUTION 111—COMMENDING ROBERT ''BOB'' DOVE ON HIS SERVICE TO THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 111

Whereas Robert Britton Dove began his service to the United States Senate in 1966 as Second Assistant Parliamentarian;

Whereas ''Bob Dove'' continued his service to the United States Senate for 35 years culminating in his appointment as the Parliamentarian of the United States Senate;

Whereas throughout his tenure in the Senate Bob Dove faithfully discharged the difficult duties and responsibilities of Parliamentarian of the United States Senate with great dedication, integrity and professionalism;

Whereas Bob Dove always performed his duties with unfailing good humor;

Whereas throughout his service as Parliamentarian Bob Dove advised the President of the Senate, as well as all Senators and staff on all questions of procedure in the Senate;

Whereas Senators and staff on both sides of the aisle have been appreciative of the Institutional and Historical knowledge that Bob brought to the office of the Parliamentarian;

Whereas Bob has published a number of documents regarding Senate process that have been used as educational resources by many Senators and staff;

Whereas Bob has given parliamentary advice and guidance to numerous countries around the globe on behalf of the Senate including but not limited to the newly formed Russian Federation;

Whereas Bob Dove has been honored by the United States Senate with the title of Parliamentarian Emeritus;

Whereas Robert Britton Dove retired on May 18, 2001, after 35 years of service to the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Robert B. Dove for his exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Robert Britton Dove.

SENATE RESOLUTION 112—HONORING THE UNITED STATES ARMY ON ITS 226TH BIRTHDAY

Mr. ALLARD (for himself, Mrs. HUTCHISON, Mr. HAGEL, Mr. CLELAND, Mr. BOND, Mr. INHOFE, Mr. HUTCHINSON, Mr. JEFFORDS, Mr. ROBERTS, Mr. REED, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. LEVIN, Ms. COLLINS, Mr. BUNNING, Mr. DAYTON, Mr. KENNEDY, Mr. MCCAIN, Mr. ALLEN, Mr. THURMOND, Mr. SANTORUM, Mr. SESSIONS, Ms. LANDRIEU, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas 226 years ago, the Continental Army was formed with the goals of ending tyranny and winning freedom for the colonists in what has become the United States of America;

Whereas since the end of the American Revolution, our Nation's soldiers, imbued with the spirit of the original patriots, have pledged their allegiance to our Nation through their sacrifices in uniform;

Whereas all of the United States Army units, Active, Guard, and Reserve, share the heritage of the Continental Army, and our Nation's soldiers represent the finest men and women our Nation has to offer;

Whereas thousands of our Nation's soldiers stand guard around the globe ensuring our freedom and doing the tough jobs that maintain our way of life;

Whereas the United States Army is steeped in a proud tradition that dates back to June 14, 1775, but is ever flexible and capable of responding to a dynamic world;

Whereas the United States Army is transforming to meet the new demands of the 21st century;

Whereas the United States Army will ensure that the President, as Commander in Chief of the Armed Forces, continues to have capable land forces to quickly and efficiently deploy throughout the world to meet the national security interests of the United States;

Whereas both in times of peace and war, throughout more than 2 centuries, our Nation's soldiers have been poised and ready to answer the call of duty to defend our great Nation; and

Whereas the United States Army remains the best fighting force in the world: unchallenged, unparalleled, respected by their allies, feared by their opponents, and esteemed by the people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the United States Army on its 226th birthday;

(2) reflects on the great legacy the United States Army has given our Nation; and

(3) expresses pride in our Nation's soldiers' courage, dedication to duty, and selfless service to our Nation.

SENATE CONCURRENT RESOLUTION 49—URGING THE RETURN OF PORTRAITS PAINTED BY DINA BABBITT DURING HER INTERNMENT AT AUSCHWITZ THAT ARE NOW IN THE POSSESSION OF THE AUSCHWITZ-BIRKENAU STATE MUSEUM.

Mrs. BOXER (for herself and Mr. SMITH of Oregon) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 49

Whereas Dina Babbitt (formerly known as Dinah Gottliebova), a United States citizen now in her late 70's, has requested the return of watercolor portraits she painted while suffering a 1½-year-long internment at the Auschwitz death camp during World War II;

Whereas Dina Babbitt was ordered to paint the portraits by the infamous war criminal Dr. Josef Mengele;

Whereas Dina Babbitt's life, and her mother's life, were spared only because she painted portraits of doomed inmates of Auschwitz-Birkenau, under orders from Dr. Josef Mengele;

Whereas these paintings are currently in the possession of the Auschwitz-Birkenau State Museum;

Whereas Dina Babbitt is unquestionably the rightful owner of the artwork, since the paintings were produced by her own talented hands as she endured the unspeakable conditions that existed at the Auschwitz death camp;

Whereas the artwork is not available for the public to view at the Auschwitz-Birkenau State Museum and therefore this unique and important body of work is essentially lost to history; and

Whereas this continued injustice can be righted through cooperation between agencies of the United States and Poland: Now, therefore, be it

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

(1) recognizes the moral right of Dina Babbitt to obtain the artwork she created, and recognizes her courage in the face of the evils perpetrated by the Nazi command of the Auschwitz-Birkenau death camp, including the atrocities committed by Dr. Josef Mengele;

(2) urges the President to make all efforts necessary to retrieve the 7 watercolor portraits Dina Babbitt painted, while suffering a 1½-year-long internment at the Auschwitz death camp, and return them to her;

(3) urges the Secretary of State to make immediate diplomatic efforts to facilitate the transfer of the 7 original watercolors painted by Dina Babbitt from the Auschwitz-Birkenau State Museum to Dina Babbitt, their rightful owner;

(4) urges the Government of Poland to immediately facilitate the return to Dina Babbitt of the artwork painted by her that is now in the possession of the Auschwitz-Birkenau State Museum; and

(5) urges the officials of the Auschwitz-Birkenau State Museum to transfer the 7 original paintings to Dina Babbitt as expeditiously as possible.

Mrs. BOXER. Mr. President, I rise today to submit a resolution regarding the artwork of a woman named Dina Babbitt. Mrs. Babbitt, who was born Dinah Gottliebova, was an inmate at Auschwitz during the Holocaust. During her internment, she was forced by the notorious Dr. Joseph Mengele to paint pictures of doomed inmates. Because of her paintings, Ms. Babbitt and her mother were two of only 22 inmates who survived their internment at Auschwitz.

Seven of the paintings were found at Auschwitz after the camp was liberated and were sold to the Polish State Museum in Osweicim. The museum contacted Mrs. Babbitt in 1973 to inform her that they had the pieces, but refused to relinquish them to her. She has been fighting with the museum since then to get her paintings back.

Mrs. Babbitt has a simple motivation for retrieving her paintings. The people in the portraits became her friends, and they perished in the gas chambers. The paintings are the only reminder she has of them and the internment camp, as she has said, ''everything else was taken from me.''

Mrs. Babbitt, who now resides in the United States, is in her late 70s. She has fought for too long to have these paintings returned. There is no doubt that she painted these works and has a moral right to have them in her possession. This resolution urges the President and the Secretary of State to work with the Polish government and the Auschwitz-Birkenau museum to see that the seven watercolors in question are returned to their rightful owner.

I hope that my colleagues will support his resolution.

SENATE CONCURRENT RESOLUTION 50—RECOGNIZING THE IMPORTANT CONTRIBUTION THAT LOCAL GOVERNMENTS MAKE TO SUSTAINABLE DEVELOPMENT AND ENSURING A VIABLE FUTURE FOR OUR PLANET

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works.

S. CON. RES. 50

Whereas the city of Ann Arbor, Michigan was chosen by the International Council for Local Environmental Initiatives (in this concurrent resolution referred to as the ''ICLEI'') to host the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting for the United Nations-sponsored 2002 World Summit on Sustainable Development (in this concurrent resolution referred to as the ''2002 World Summit'');

Whereas the ICLEI strives to build and serve a worldwide movement of local governments to achieve tangible improvements in global environmental and sustainable development conditions through cumulative local actions;

Whereas the goals of the 2002 World Summit are to generate momentum toward sustainable development and ensure a viable future for our planet;

Whereas the predecessor of the 2002 World Summit was the United Nations Conference on Environment and Development, known as the Earth Summit;

Whereas local governments play a central role in the development of communities that respect ecological integrity, promote social well-being, and create economic vitality by developing and maintaining economic, social, and environmental infrastructures, overseeing local planning processes, establishing local environmental policies and regulations, and assisting in implementing national environmental policies;

Whereas the city of Ann Arbor, Michigan is a member of the ICLEI's Cities for Climate Protection, an association of over 300 local governments from around the world dedicated to developing sustainable community-based solutions to local and global environmental problems;

Whereas the city of Ann Arbor, Michigan is a designated Department of Energy Clean City in recognition of the city's efforts to purchase alternative fuel vehicles, build alternative fuel infrastructure, and educate the community about the use of alternative fuel vehicles in order to enhance energy security and environmental quality;

Whereas the city of Ann Arbor, Michigan is a member of the Environmental Protection Agency's Green Lights Program and has retrofitted over 20 city buildings with energy efficient lighting;

Whereas the city of Ann Arbor, Michigan developed an innovative Municipal Energy Fund to improve the energy efficiency of city facilities and provide community demonstrations of energy saving and renewable energy technologies that result in environmental stewardship and fiscal responsibility;

Whereas the city of Ann Arbor, Michigan has an Energy Plan that reduces energy use and encourages renewable energy, a Solid Waste Plan that encourages recycling, composting, and source reduction, and a Transportation Plan that reduces traffic congestion and vehicle miles traveled through the implementation of mass transit and alternate transportation programs;

Whereas the Environmental Management Team of the city of Ann Arbor, Michigan has a comprehensive program addressing environmental cleanup, environmental restoration, park and greenway development, energy efficiency, transportation alternatives, parks, infill development, and waste water management;

Whereas the city of Ann Arbor, Michigan was chosen from among 35 cities in North America to host the ICLEI's U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting;

Whereas the city of Ann Arbor, Michigan is 1 of 6 cities worldwide selected to host a preparatory meeting for the 2002 World Summit; and

Whereas the University of Michigan and the residents of the city of Ann Arbor, Michigan are committed to communitywide initiatives to support sustainable development: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the city of Ann Arbor, Michigan and its residents for their dedication to building a community that respects ecological integrity, promotes social well-being, and creates economic vitality.

Mr. LEVIN. Mr. President, I and my colleague from Michigan, Senator STABENOW, are submitting a resolution recognizing the City of Ann Arbor, Michigan and its residents for their dedication to building a community that respects the environment, promotes social well-being and creates economic vitality. The City of Ann

Arbor is hosting the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting for United Nations-sponsored 2002 World Summit on Sustainable Development. The 2002 World Summit marks the ten-year anniversary of the United Nation's Conference on Environment and Development, better known as the Earth Summit. The Earth Summit, held in 1992 in Rio de Janeiro, Brazil, built wide political and popular support for environmental protection and sustainable development. Local leaders from across the world will gather at the 2002 World Summit to assess progress and examine barriers to the implementation of the Rio agreements. The Summit and preparatory meetings will generate new momentum for and renew our commitment to ensuring a viable future for our planet.

In preparation for the 2002 World Summit, the International Council for Local Environmental Initiatives (ICLEI) is convening regional meetings to bring together local government leaders, technical experts and representatives of local government associations to evaluate local implementation of the Earth Summit's Agenda 21 and the Rio Conventions. The City of Ann Arbor was one of six cities worldwide chosen to host a preparatory meeting to assess opportunities and recommend strategies for accelerated action for sustainable development at the local level. Ann Arbor serves as a model for the important contributions that local governments make to sustainable development. Committed to protecting the environment while promoting social well-being and economic vitality, the city is purchasing alternative fuel vehicles, building alternative fuel infrastructure and educating residents about the use of alternative fuel vehicles in order to enhance energy security and environmental quality. The city is also developing an innovative Municipal Energy Fund to improve the energy efficiency of city facilities and provide community demonstrations of energy saving and renewable energy technologies that result in environmental stewardship and fiscal responsibility. For these reasons, the city is designated an ICLEI's City for Climate Protection and a Department of Energy Clean City. Protecting precious land resources and ensuring clean air and water for residents are also important priorities of the city. Ann Arbor has a comprehensive program addressing environmental clean-up and restoration, park and greenway development, energy efficiency, transportation alternatives, infill development and wastewater management.

I congratulate all the local leaders who will be attending the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting. Their cumulative local actions will improve our global environment. And, I commend the City of Ann Arbor, its residents and the University of Michigan for building a community that strives to protect our environment for future generations.

Ms. STABENOW. Mr. President, I am proud to join my colleague from Michigan, Senator LEVIN, in submitting a resolution recognizing the City of Ann Arbor, Michigan and its residents for their dedication to building a community that respects ecological integrity, promotes social well-being, and creates economic vitality.

On June 20, 2001, the City of Ann Arbor, Michigan will be hosting the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting for the United Nations-sponsored 2002 World Summit on Sustainable Development. The 2002 World Summit marks the ten-year anniversary of the 1992 Earth Summit, which helped build worldwide political and popular support for environmental protection and sustainable development. The 2002 World Summit will help assess the progress made since the Earth Summit, and renew our commitment to providing a bright future for our planet.

The City of Ann Arbor was chosen from among 35 cities in North America to host the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting, and is one of six cities worldwide selected to host a preparatory meeting for the 2002 World Summit. The preparatory meeting will bring together local government leaders, technical experts and representatives of local government associations to examine opportunities and recommend strategies for environmental protection and sustainable development at the local level.

The City of Ann Arbor has had numerous environmental accomplishments, and serves as a shining example of how local government can make tremendous contributions to solving local and global environmental problems. The City of Ann Arbor has developed an Energy Plan that reduces energy use and encourages renewable energy, a Solid Waste Plan that encourages recycling, composting, and source reduction, and a Transportation Plan that promotes mass transit and alternate transportation programs. Ann Arbor is also a Department of Energy Clean City, in recognition of its efforts to build alternative fuel infrastructure, purchase alternative fuel vehicles and educate the community about their uses. The city is also developing an innovative Municipal Energy Fund to improve the energy efficiency of city facilities and provide community demonstrations of energy saving and renewable energy technologies that result in environmental stewardship and fiscal responsibility. The City of Ann Arbor has made protecting the environment a community priority, and serves as a model of how local governments can play a critical role in sustainable development.

I congratulate the City of Ann Arbor for the honor of being chosen as one of six cities worldwide to host a preparatory meeting for the 2002 World Summit, and I congratulate all the local leaders who will be attending this preparatory meeting to help solve our environmental problems. I also commend the city and its residents for building a community that works hard to protect the environment, while at the same time creating economic vitality and promoting social well-being.

AMENDMENTS SUBMITTED AND PROPOSED

SA 803. Mrs. BOXER proposed an amendment to amendment No. 562 submitted by Mrs. BOXER and intended to be proposed to the amendment No. 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

SA 804. Mr. KENNEDY (for himself and Mr. GREGG) proposed an amendment to amendment No. 358 submitted by Mr. JEFFORDS and intended to be proposed to the bill (S. 1) supra.

TEXT OF AMENDMENTS

SA 803. Mrs. BOXER proposed an amendment to amendment No. 562 submitted by Mrs. BOXER and intended to be proposed to the amendment No. 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. 1. SHORT TITLE.

This title may be cited as the ''Equal Access to Public School Facilities Act.''

SEC. 2. EQUAL ACCESS.

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

SA 804. Mr. KENNEDY (for himself and Mr. GREGG) proposed an amendment to amendment No. 358 submitted by Mr. JEFFORDS and intended to be proposed to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 18, line 14, strike '', provide'' and all that follows through page 18, line 17, and insert ''provide, on an equitable basis, such children special educational services or other benefits under such program, and provide their teachers and other education personnel serving such children training and professional development services under such program.''.

On page 19, between lines 19 and 20, insert the following:

''(A) subpart 2 of part B of title I;

On page 19, line 20, strike ''(A)'' and insert ''(B)''.

On page 19, line 21, strike ''(B)'' after ''A''.

On page 19, line 21, strike ''(B)'' and insert ''(C)''.

On page 19, line 22, strike ''(C)'' and insert ''(D)''.

On page 19, line 23, strike ''(D)'' and insert ''(E)''.

On page 69, line 18, strike the end quotation marks and the second period.

On page 69, between lines 18 and 19, insert the following:

''(m) VOLUNTARY PARTNERSHIPS.—A State may enter into a voluntary partnership with another State to develop and implement the assessments and standards required under this section.''.

On page 300, line 24, strike ''(2) and (3)'' and insert ''(3) and (4)''.

On page 300, line 24, strike ''and'' after the semicolon.

On page 301, line 1, strike ''paragraph (2)'' and insert ''paragraph (3)''.

On page 301, between lines 2 and 3, insert the following:

''(1) the term 'homeless children and youth'—

''(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and

''(B) includes—

''(i) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;

''(ii) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); and

''(iii) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

''(C) migratory children (as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in this paragraph;

(2) The terms enroll and enrollment include attending classes and participating fully in school activities.

On page 301, line 3, strike ''(1)'' and insert ''(2)''.

On page 301, line 6, strike the period and insert a semicolon.

On page 301, between lines 6 and 7, insert the following:

(3) in paragraph (3) (as so redesignated), by striking ''and'' after the semicolon;

(4) in paragraph (4) (as so redesignated), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(5) the term 'unaccompanied youth' includes a youth not in the physical custody of a parent or guardian.''.

On page 315, line 15, insert ''principals,'' after ''teachers,''.

On page 316, between lines 20 and 21, insert the following:

''(12) An assurance that the State educational agency will comply with section 6 (regarding participation by private school children and teachers).

On page 319, between lines 19 and 20, insert the following:

''(12) Fulfilling the State's responsibilities concerning proper and efficient administration of the program carried out under this part.

On page 323, line 16, insert ''and principals'' after ''teachers''.

On page 324, lines 7 and 8, insert '', principals,'' after ''teachers''.

On page 324, between lines 10 and 11, insert the following:

''(11) An assurance that the local educational agency will comply with section 6 (regarding participation by private school children and teachers).

On page 325, line 20, insert ''and principals'' after ''teachers''.

On page 325, line 23, insert ''and principals'' after ''teachers''.

On page 348, line 8, strike ''and'' after the semicolon.

On page 348, line 15, strike the period and insert ''; and''.

On page 348, between lines 15 and 16, insert the following:

''(5) a description of how the State educational agency and local educational agency in the eligible partnership will comply with section 6 (regarding participation by private school children and teachers).

On page 369, line 13, strike ''and'' after the semicolon.

On page 369, between lines 13 and 14, insert the following:

''(3) contains an assurance that the State educational agency will comply with section 6 (regarding participation by private school children and teachers).

On page 369, line 14, strike ''(3)'' and insert ''(4)''.

On page 373, line 10, strike ''and''.

On page 373, between lines 10 and 11, insert the following:

''(10) a description of how the local educational agency will comply with section 6 (regarding participation by private school children and teachers).

On page 373, line 11, strike ''(10)'' and insert ''(11)''.

On page 708, line 3, insert ''(including assurances of compliance with applicable provisions regarding participation by private school children and teachers)'' before the comma.

On page 764, line 25, strike ''and'' after the semicolon;

On page 765, line 6, strike the period and insert ''; and''.

On page 765, between lines 6 and 7, insert the following:

''(D) parents of children from birth through age 5.

On page 765, between lines 10 and 11, insert the following:

''(c) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a parental information and resource center from—

''(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

''(2) working with another agency that serves children.

On page 766, line 6, insert '', who shall constitute a majority of the members of the special advisory committee'' after ''6101(b)(1)(A)''.

Amendment to SA505, Page 6: Delete lines 12 through 18 and insert: ''each school shall be determined by the tribal governing body, or the school board, if authorized by the tribal governing body''.

On page 774, line 14, strike from 6201(a)(2)(A)(i) the phrase: ''economically disadvantaged students and of students who are racial and ethnic minorities'' and replace it with ''any of the categories of students listed in section 1111(b)(2)(B)(v)(II)''.

On page 777, line 15, strike from 6202(a)(2)(B) the phrase: ''students who are racial and ethnic minorities, and economically disadvantaged students,'' and replace it with: ''any of the categories of students listed in section 1111(b)(2)(B)(v)(II)''.

On page 9 of SA#484, line 15, strike ''365'' and insert ''1 of SA#545'' and delete ''10'' and insert ''7''.

On page 10 of SA#484, line 20, strike ''and''.

On page 11 of SA#484, line 15, strike the period after ''ance''.

On page 11 of SA#484, line 15, add ''; and'' after ''ance''.

On page 11 of SA#484, add the following between lines 15 and 16:

''(6) outlines how the plan incorporates—

(A) teacher education and professional development;

(B) curricular development; and

(C) technology resources and systems for the purpose of establishing best practices that can be widely implemented by the State and local educational agencies.''.

On page 13 of SA#484, strike ''and'' on line 6 and strike the period after ''students'' on line 9.

On page 13 of SA#484, add ''; and'' after ''students''.

On page 13 of SA#484, insert the following between lines 9 and 10:

''(8) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement and student performance.''.

On page 6 of SA#441, line 12, add ''approaches'' after ''available''.

On page 579, line 25, insert after ''person'', ''receiving funds pursuant to this Act,''.

On page 580, line 8, after ''person'', insert ''receiving funds pursuant to this Act.''.

On page 582, line 25, after ''exceed'', insert ''fifty percent''.

On page 582, line 1, after ''received'', insert ''under the Better Education for Students and Teachers Act''.

On page 138, line 9, strike ''according to'' and insert ''taking into consideration''.

On page 4 of amendment No. 370, line 1, strike ''1,500'' and insert ''1,000''.

On page 521, between lines 18 and 19, insert the following:

SEC. 405. AMENDMENT TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) is amended by adding at the end the following:

''Chapter 3—Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities Through the Provision of Certain Services

''SEC. 691. FINDINGS.

''Congress makes the following findings:

''(1) Approximately 1,000,000 children and youth in the United States have low-incidence disabilities which affects the hearing, vision, movement, emotional, and intellectual capabilities of such children and youth.

''(2) There are 15 States that do not offer or maintain teacher training programs for any of the 3 categories of low-incidence disabilities. The 3 categories are deafness, blindness, and severe disabilities.

''(3) There are 38 States in which teacher training programs are not offered or maintained for 1 or more of the 3 categories of low-incidence disabilities.

''(4) The University of Northern Colorado is in a unique position to provide expertise, materials, and equipment to other schools and educators across the nation to train current and future teachers to educate individuals that are challenged by low-incidence disabilities.

''SEC. 692. NATIONAL CENTER FOR LOW-INCIDENCE DISABILITIES.

''In order to fill the national need for teachers trained to educate children who are challenged with low-incidence disabilities, the University of Northern Colorado shall be designated as a National Center for Low-Incidence Disabilities.

''SEC. 693. SPECIAL EDUCATION TEACHER TRAINING PROGRAMS.

''(a) GRANT.—The Secretary shall award a grant to the University of Northern Colorado to enable such University to provide to institutions of higher education across the nation

such services that are offered under the special education teacher training program carried out by such University, such as providing educational materials or other information necessary in order to aid in such teacher training.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 for fiscal year 2002, and $1,000,000 for each of the fiscal years 2003 through 2005.''.

At the end, add the following:

SEC. ___. FEDERAL INCOME TAX INCENTIVE STUDY.

(a) IN GENERAL.—The Secretary of Education shall provide for the conduct of a study to examine whether Federal income tax incentives that provide education assistance affect higher education tuition rates.

(b) DATE.—The study described in subsection (a) shall be conducted not later than 6 months after the date of enactment of this Act and every 4 years thereafter.

(c) REPORT.—The Secretary shall report to Congress the results of each study conducted under this section.

At the appropriate place insert the following:

SEC. ___. CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998.

(a) IN GENERAL.—Section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327) is amended—

(1) in subsection (a), by inserting ''that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institutions'';

(2) in subsection (b), by adding ''institutional support of'' after ''for'';

(3) in subsection (d), by inserting ''that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institution''; and

(4) in subsection (e)(1)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following:

''(D) institutional support of vocational and technical education.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) APPLICATION.—The amendments made by subsection (a) shall apply to grants made for fiscal year 2001 only if this Act is enacted before September 30, 2001.

At the end, add the following:

SEC. 902. SENSE OF CONGRESS ON ENHANCING AWARENESS OF THE CONTRIBUTIONS OF VETERANS TO THE NATION.

(a) FINDINGS.—Congress makes the following findings

(1) Tens of millions of Americans have served in the Armed Forces of the United States during the past century.

(2) Hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century.

(3) The contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining our freedoms and way of life.

(4) The advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces.

(5) This reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in our Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations.

(6) Our system of civilian control of the Armed Forces makes it essential that the Nation's future leaders understand the history of military action and the contributions and sacrifices of those who conduct such actions.

(7) Senate Resolution 304 of the 106th Congress, adopted on September 25, 2000, designated the week that includes Veterans Day as ''National Veterans Awareness Week'' to focus attention on educating elementary and secondary school students about the contributions of veterans to the Nation.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

the Secretary of Education should work with the Secretary of Veterans Affairs, the Veterans Day National Committee, and the veterans service organizations to encourage, prepare, and disseminate educational materials and activities for elementary and secondary school students aimed at increasing awareness of the contributions of veterans to the prosperity and freedoms enjoyed by United States citizens.

On page 893, after line 14, add the following:

SEC. ___. TECHNICAL AMENDMENT TO THE KIDS 2000 ACT.

Amounts appropriated pursuant to section 112(f)(1) of the Kids 2000 Act (42 U.S.C. 13751 note) and the initiative to be carried out under such Act shall be administered by the Secretary of Education.

At the appropriate place, insert:

SECTION 1. SHORT TITLE.

(a) THIS ACT.—This Act may be cited as the ''John H. Chafee Environmental Education Act of 2001''.

(b) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Section 1(a) of the National Environmental Education Act (20 U.S.C. 5501 note) is amended by striking ''National Environmental Education Act'' and inserting ''John H. Chafee Environmental Education Act''.

SEC. 2. OFFICE OF ENVIRONMENTAL EDUCATION.

Section 4 of the John H. Chafee Environmental Education Act (20 U.S.C. 5503) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting ''objective and scientifically sound'' after ''support'';

(B) by striking paragraph (6);

(C) by redesignating paragraphs (7) through (13) as paragraphs (6) through (12), respectively; and

(D) in paragraph (12) (as so redesignated), by inserting before the period at the end the following: ''through the headquarters and the regional offices of the Agency''; and

(2) by striking subsection (c) and inserting the following:

''(c) STAFF.—The Office of Environmental Education shall—

''(1) include a headquarters staff of not more than 10 full-time equivalent employees; and

''(2) be supported by 1 full-time equivalent employee in each regional office of the Agency.

''(d) ACTIVITIES.—The Administrator may carry out the activities described in subsection (b) directly or through awards of grants, cooperative agreements, or contracts.''.

SEC. 3. ENVIRONMENTAL EDUCATION GRANTS.

Section 6 of the John H. Chafee Environmental Education Act (20 U.S.C. 5505) is amended—

(1) in the second sentence of subsection (i), by striking ''25 percent'' and inserting ''15 percent''; and

(2) by adding at the end the following:

''(j) LOBBYING ACTIVITIES.—A grant under this section may not be used to support a lobbying activity (as described in the documents issued by the Office of Management and Budget and designated as OMB Circulars No. A–21 and No. A–122).

''(k) GUIDANCE REVIEW.—Before the Administrator issues any guidance to grant applicants, the guidance shall be reviewed and approved by the Science Advisory Board of the Agency established by section 8 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365).''.

SEC. 4. JOHN H. CHAFEE MEMORIAL FELLOWSHIP PROGRAM.

(a) IN GENERAL.—Section 7 of the John H. Chafee Environmental Education Act (20 U.S.C. 5506) is amended to read as follows:

''SEC. 7. JOHN H. CHAFEE MEMORIAL FELLOWSHIP PROGRAM.

''(a) ESTABLISHMENT.—There is established the John H. Chafee Memorial Fellowship Program for the award and administration of 5 annual 1-year higher education fellowships in environmental sciences and public policy, to be known as 'John H. Chafee Fellowships'.

''(b) PURPOSE.—The purpose of the John H. Chafee Memorial Fellowship Program is to stimulate innovative graduate level study and the development of expertise in complex, relevant, and important environmental issues and effective approaches to addressing those issues through organized programs of guided independent study and environmental research.

''(c) AWARD.—Each John H. Chafee Fellowship shall—

''(1) be made available to individual candidates through a sponsoring institution and in accordance with an annual competitive selection process established under subsection (f)(3); and

''(2) be in the amount of $25,000.

''(d) FOCUS.—Each John H. Chafee Fellowship shall focus on an environmental, natural resource, or public health protection issue that a sponsoring institution determines to be appropriate.

''(e) SPONSORING INSTITUTIONS.—The John H. Chafee Fellowships may be applied for through any sponsoring institution.

''(f) PANEL.—

''(1) IN GENERAL.—The National Environmental Education Advisory Council established by section 9(a) shall administer the John H. Chafee Fellowship Panel.

''(2) MEMBERSHIP.—The Panel shall consist of 5 members, appointed by a majority vote of members of the National Environmental Education Advisory Council, of whom—

''(A) 2 members shall be professional educators in higher education;

''(B) 2 members shall be environmental scientists; and

''(C) 1 member shall be a public environmental policy analyst.

''(3) DUTIES.—The Panel shall—

''(A) establish criteria for a competitive selection process for recipients of John H. Chafee Fellowships;

''(B) receive applications for John H. Chafee Fellowships; and

''(C) annually review applications and select recipients of John H. Chafee Fellowships.

''(g) DISTRIBUTION OF FUNDS.—The amount of each John H. Chafee Fellowship shall be provided directly to each recipient selected by the Panel upon receipt of a certification from the recipient that the recipient will adhere to a specific and detailed plan of study and research.

''(h) FUNDING.—From amounts made available under section 13(b)(1)(C) for each fiscal year, the Office of Environmental Education shall make available—

''(1) $125,000 for John H. Chafee Memorial Fellowships; and

''(2) $12,500 to pay administrative expenses incurred in carrying out the John H. Chafee Memorial Fellowship Program.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) is amended—

(1) in paragraph (12), by striking ''and'' at the end;

(2) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(14) 'Panel' means the John H. Chafee Fellowship Panel established under section 7(f);

''(15) 'sponsoring institution' means an institution of higher education;''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 7 and inserting the following:

''Sec. 7. John H. Chafee Memorial Fellowship Program.''.

SEC. 5. NATIONAL ENVIRONMENTAL EDUCATION AWARDS.

(a) IN GENERAL.—Section 8 of the John H. Chafee Environmental Education Act (20 U.S.C. 5507) is amended to read as follows:

''SEC. 8. NATIONAL ENVIRONMENTAL EDUCATION AWARDS.

''(a) PRESIDENT'S ENVIRONMENTAL YOUTH AWARDS.—The Administrator may establish a program for the granting and administration of awards, to be known as 'President's Environmental Youth Awards', to young people in grades kindergarten through 12 to recognize outstanding projects to promote local environmental awareness.

''(b) TEACHERS' AWARDS.—

''(1) IN GENERAL.—The Chairman of the Council on Environmental Quality, on behalf of the President, may establish a program for the granting and administration of awards to recognize—

''(A) teachers in elementary schools and secondary schools who demonstrate excellence in advancing objective and scientifically sound environmental education through innovative approaches; and

''(B) the local educational agencies of the recognized teachers.

''(2) ELIGIBILITY.—One teacher, and the local education agency employing the teacher, from each State, the District of Columbia, and the Commonwealth of Puerto Rico, shall be eligible to be selected for an award under this subsection.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 4(b)) is amended by adding at the end the following:

''(16) 'elementary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

''(17) 'secondary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 8 and inserting the following:

''Sec. 8. National environmental education awards.''.

SEC. 6. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

Section 9 of the John H. Chafee Environmental Education Act (20 U.S.C. 5508) is amended—

(1) in subsection (b)(2)—

(A) by striking ''(2) The'' and all that follows through the end of the second sentence and inserting the following:

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The Advisory Council shall consist of not more than 11 members appointed by the Administrator after consultation with the Secretary.

''(B) REPRESENTATIVES OF SECTORS.—To the maximum extent practicable, the Administrator shall appoint to the Advisory Council at least 2 members to represent each of—

''(i) elementary schools and secondary schools;

''(ii) colleges and universities;

''(iii) not-for-profit organizations involved in environmental education;

''(iv) State departments of education and natural resources; and

''(v) business and industry.'';

(B) in the third sentence, by striking ''A representative'' and inserting the following:

''(C) REPRESENTATIVE OF THE SECRETARY.—A representative''; and

(C) in the last sentence, by striking ''The conflict'' and inserting the following:

''(D) CONFLICTS OF INTEREST.—The conflict'';

(2) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) MEMBERSHIP.—Membership on the Task Force shall be open to representatives of any Federal agency actively engaged in environmental education.''; and

(3) in subsection (d), by striking ''(d)(1)'' and all that follows through ''(2) The'' and inserting the following:

''(d) MEETINGS AND REPORTS.—

''(1) IN GENERAL.—The Advisory Council shall—

''(A) hold biennial meetings on timely issues regarding environmental education; and

''(B) issue a report describing the proceedings of each meeting and recommendations resulting from the meeting.

''(2) REVIEW AND COMMENT ON DRAFT REPORTS.—The''.

SEC. 7. NATIONAL ENVIRONMENTAL LEARNING FOUNDATION.

(a) CHANGE IN NAME.—

(1) IN GENERAL.—Section 10 of the John H. Chafee Environmental Education Act (20 U.S.C. 5509) is amended—

(A) by striking the section heading and inserting the following:

''SEC. 10. NATIONAL ENVIRONMENTAL LEARNING FOUNDATION.'';

and

(B) in the first sentence of subsection (a)(1)(A), by striking ''National Environmental Education and Training Foundation'' and inserting ''National Environmental Learning Foundation''.

(2) CONFORMING AMENDMENTS.—

(A) The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 10 and inserting the following:

''Sec. 10. National Environmental Learning Foundation.''.

(B) Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 4(b)) is amended—

(i) by striking paragraph (12) and inserting the following:

''(12) 'Foundation' means the National Environmental Learning Foundation established by section 10;''; and

(ii) in paragraph (13), by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation''.

(b) NUMBER OF DIRECTORS.—Section 10(b)(1)(A) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(b)(1)(A)) is amended in the first sentence by striking ''13'' and inserting ''19''.

(c) ACKNOWLEDGMENT OF DONORS.—Section 10(d) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(d)) is amended by striking paragraph (3) and inserting the following:

''(3) ACKNOWLEDGMENT OF DONORS.—The Foundation may acknowledge receipt of donations by means of a listing of the names of donors in materials distributed by the Foundation, except that any such acknowledgment—

''(A) shall not appear in educational material presented to students; and

''(B) shall not identify a donor by means of a logo, letterhead, or other corporate commercial symbol, slogan, or product.''.

(d) ADMINISTRATIVE SERVICES AND SUPPORT.—Section 10(e) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(e)) is amended in the first sentence by striking ''for a period of up to 4 years from the date of enactment of this Act,''.

SEC. 8. THEODORE ROOSEVELT ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act is amended—

(1) by redesignating section 11 (20 U.S.C. 5510) as section 13; and

(2) by inserting after section 10 the following:

''SEC. 11. THEODORE ROOSEVELT ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established a grant program to be known as the 'Theodore Roosevelt Environmental Stewardship Grant Program' (referred to in this section as the 'Program') for the award and administration of grants to consortia of institutions of higher education to pay the Federal share of the cost of carrying out collaborative student, campus, and community-based environmental stewardship activities.

''(2) FEDERAL SHARE.—The Federal share shall be 75 percent.

''(b) PURPOSE.—The purpose of the Program is to build awareness of, encourage commitment to, and promote participation in environmental stewardship—

''(1) among students at institutions of higher education; and

''(2) in the relationship between—

''(A) such students and campuses; and

''(B) the communities in which the students and campuses are located.

''(c) AWARD.—Grants under the Program shall be made available to consortia of institutions of higher education in accordance with an annual competitive selection process established under subsection (d)(2)(A).

''(d) ADMINISTRATION.—

''(1) IN GENERAL.—The Office of Environmental Education established under section 4 shall administer the Program.

''(2) DUTIES.—The Office of Environmental Education shall—

''(A) establish criteria for a competitive selection process for recipients of grants under the Program;

''(B) receive applications for grants under the Program; and

''(C) annually review applications and select recipients of grants under the Program.

''(3) CRITERIA.—In establishing criteria for a competitive selection process for recipients of grants under the Program, the Office of Environmental Education shall include, at a minimum, as criteria, the extent to which a grant will—

''(A) directly facilitate environmental stewardship activities, including environmental protection, preservation, or improvement activities; and

''(B) stimulate the availability of other funds for those activities.

''(e) CONDITIONS ON USE OF FUNDS.—With respect to the funds made available to carry out this section under section 13(a)(1)—

''(1) not fewer than 6 grants each year shall be awarded using those funds; and

''(2) no grant made using those funds shall be in an amount that exceeds $500,000.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 5(b)) is amended by adding at the end the following:

''(18) 'consortium of institutions of higher education' means a cooperative arrangement among 2 or more institutions of higher education; and

''(19) 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

SEC. 9. INFORMATION STANDARDS.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act is amended by inserting after section 11 (as added by section 8(a)(2)) the following:

''SEC. 12. INFORMATION STANDARDS.

''In disseminating information under this Act, the Office of Environmental Education shall comply with the guidelines issued by the Administrator under section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note; 114 Stat. 2763A–153).''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 11 and inserting the following:

''Sec. 11. Theodore Roosevelt Environmental Stewardship Grant Program.
''Sec. 12. Information standards.
''Sec. 13. Authorization of appropriations.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the John H. Chafee Environmental Education Act (20 U.S.C. 5510) (as redesignated by section 8(a)(1)) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by striking the section heading and subsections (a) and (b) and inserting the following:

''SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to the Environmental Protection Agency to carry out this Act $13,000,000 for each of fiscal years 2002 through 2007, of which—

''(1) $3,000,000 for each fiscal year shall be used to carry out section 11; and

''(2) $10,000,000 for each fiscal year shall be allocated in accordance with subsection (b).

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), of the amounts made available under subsection (a)(2) for each fiscal year—

''(A) not more than 25 percent may be used for the activities of the Office of Environmental Education established under section 4;

''(B) not more than 25 percent may be used for the operation of the environmental education and training program under section 5;

''(C) not less than 40 percent shall be used for environmental education grants under section 6 and for the John H. Chafee Memorial Fellowship Program under section 7; and

''(D) 10 percent shall be used for the activities of the Foundation under section 10.

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under paragraph (1)(A) for each fiscal year, not more than 10 percent may be used for administrative expenses of the Office of Environmental Education.

''(c) EXPENSE REPORT.—As soon as practicable after the end of each fiscal year, the Administrator shall submit to Congress a report describing in detail the activities for which funds appropriated for the fiscal year were expended.''; and

(3) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation''; and

(B) in paragraph (2), by striking ''section 10(d) of this Act'' and inserting ''section 10(e)''.

In the Inhofe amendment, page 8, line 16 after ''.'', insert:

''(3) The Chairman is authorized to provide a cash award of up to $2,500 to each teacher selected to receive an award pursuant to this section, which shall be used to further the recipient's professional development in environmental education. The Chairman is also authorized to provide a cash award of up to $2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

''(4) The Chairman of the Council on Environmental Quality may administer this awards program through a cooperative agreement with the National Environmental Learning Foundation.''

Strike ''40'' in subsection 13(b)(1)(C) and insert ''38'';

Strike the period at the end of subsection 13(b)(1)(D) and insert: ''; and (E) not less than 2 percent shall be available to support Teachers' Awards under subsection 8(b).''

On page 893, after line 14, insert the following:

''PART B—TRANSITION PROVISION

''SEC. 9201. CERTAIN MULTIYEAR GRANTS AND CONTRACTS.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, from funds appropriated under subsection (b) the Secretary shall continue to fund any multiyear grant or contract awarded under section 3141 or part A or C of title XIII (as such section or part was in effect on the day preceding the date of the enactment of the Better Education for Students and Teachers Act) for the duration of the multiyear award.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out subsection (a).

''(c) REPEAL.—This section is repealed on the date of enactment of a law that—

''(1) reauthorizes a provision of the Educational Research, Development, Dissemination, and Improvement Act of 1994; and

''(2) is enacted after the date of enactment of the Better Education for Students and Teachers Act.''.

On page 764, line 10, strike ''and''

On page 764, line 13, strike the period and insert: ''; and''

On page 764, between lines 13 and 14, insert the following:

''(6) to provide a comprehensive approach to improving student learning through coordination and integration of Federal, State, and local services and programs.''

On page 764, line 20, before ''training'' insert: ''comprehensive''

On page 768, line 6, strike ''and''

On page 768, line 9, strike the period and insert '';''

On page 768, between lines 9 and 10, insert the following:

''(M) identify and coordinate Federal, State, and local services and programs that support improved student learning, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training; and

(N) work with and foster partnerships with other agencies that provide programs and deliver services described in subparagraph (M) to make such programs and services more accessible to children and families.''

On page 770, line 7, after ''Federal'' insert: '', State, and local services and''.

On page 77, line 10, strike ''and'' after the semicolon.

On page 77, between lines 17 and 18, insert the following:

(iii) by adding at the end the following:

''(I) Coordination and integration of Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.''; and

On page 77, line 24, strike ''and''.

On page 78, line 4, strike ''and''.

On page 78, between lines 4 and 5, insert the following:

(III) in clause (vi), by striking ''and'' after the semicolon;

(IV) in clause (vii), by striking the period and inserting ''; and''; and

(V) by adding at the end the following:

''(viii) describes how the school will coordinate and collaborate with other agencies providing services to children and families, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.''; and

On page 79, line 11, strike ''and'' both places it appears.

On page 79, strike line 18, and insert the following: teams; and''; and

On page 79, between lines 18 and 19, insert the following:

(C) by adding at the end the following:

''(I) coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.''.

On page 572, line 2, insert '', or to have possessed a weapon at a school,'' after ''to a school''.

On page 572, line 7, insert before the period the following: ''if such modification is in writing''.

On page 573, line 3, strike ''and''.

On page 573, line 9, strike ''and''.

On page 573, line 10, strike the period and insert ''; and''.

On page 573, between line 13 and 14, insert the following:

''(f) DEFINITION.—In this section, the term 'school' means any setting that is under the control and supervision of the local education agency for the purpose of student activities approved and authorized by the local education agency.

''(g) EXCEPTION.—Nothing in this section shall apply to a weapon that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.''.

On page 573, line 20, strike ''brings a firearm or weapon to a school'' and insert ''brings a weapon to a school, or is found to have possessed a weapon at a school,''.

On page 573, strike lines 22 through 25, and insert the following:

''(b) DEFINITIONS.—For the purpose of this section:

''(1) SCHOOL.—The term 'school' has the meaning given to such term by section 921(a) of title 18, United States Code.

''(2) WEAPON.—The term 'weapon' has the meaning given such term in section 4101(b)(3).''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 21, at 9:30 a.m. in SD–106 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider national energy policy with respect to fuel specifications and infrastructure constraints and their impacts on energy supply and price, (Part II).

Those wishing to submit written statements should address them to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510–6150.

For further information, please contact Shirley Neff at 202/224–4103.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President. I would like to announce for the information of the Senate and the public that the hearing previously scheduled for Tuesday, June 19, 15 9:30 a.m., in room SD–106 of the Dirksen Senate Office Building will now start at 9 a.m.

The purpose of the hearing is to receive testimony on S. 764, a bill to direct the Federal Energy Regulatory Commission to impose just and reasonable load-differentiated demand rates or cost-of-service based rates on sales by public utilities of electric energy at wholesale in the western energy market, and for other purposes; and sections 508–510 (relating to wholesale electricity rates in the western energy market, natural gas rates in California, and the sale price of bundled natural gas transactions) of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001.

For further information please contact Leon Lowery or Jonathan Black at 202/224–4103.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to hold a markup on the nomination of Gordon H. Mansfield to be Assistant Secretary for Congressional Affairs in the Department of Veterans Affairs, followed by a hearing on ''The Looming Nurse Shortage: Impact on the Department of Veterans Affairs.''

The Committee will meet on Thursday, June 14, 2001, at 10 a.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, June 14, 2001, from 9:30 a.m.–12 p.m., in Dirksen 562 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate on Thursday, June 14, 2001, at 9:30 a.m., for a hearing entitled ''Cross Border Fraud: Scams Know No Boundaries.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent to allow Lisa Ekman, my policy fellow, floor privileges for the duration of the debate on S. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Spencer Stelljes, an intern in my office, be granted floor privileges during the remainder of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent that Beth Cameron, a fellow on Senator KENNEDY's staff, be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Madam President, I ask unanimous consent for Rebecca Papoff of my staff to be given the privilege of the floor for the duration of the Helms amendment on the Boy Scouts of America.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT BY THE MAJORITY LEADER

Mr. DASCHLE. Madam President, before I begin with the wrap-up items, I announce that all the matters that I am about to propose have been cleared on the Republican side.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 72, 97, and 107; that the nominations be confirmed, the motions to reconsider be laid on the table, that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

Before the Chair rules on this request, I want to add that we are prepared to clear four Treasury Department nominations on the calendar, as well as one military promotion. The remaining two nominations will require floor time and rollcall votes. We are working on those agreements. I simply note that because I have said from the very beginning of my tenure as majority leader that I am prepared to move nominations forward. We would have been prepared to move virtually all but two nominations.

As I understand it, there are objections to the four Treasury Department nominations on the Republican side, as well as an objection to one military promotion. Given those objections, clearly we are not prepared to move to them today. It is not as a result of any particular objection on our side. We are prepared to move to them just as soon as the Republican matters can be resolved. I ask for their consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF JUSTICE

Charles A. James, Jr., of Virginia, to be an Assistant Attorney General.

EXECUTIVE OFFICE OF THE PRESIDENT

James Laurence Connaughton, of the District of Columbia, to be a Member of the Council on Environmental Quality.

ENVIRONMENTAL PROTECTION AGENCY

Stephen L. Johnson, of Maryland, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

COMMENDING ASSISTANT SECRETARY SHARON ZELASKA

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 110 submitted by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 110) relating to the retirement of Sharon A. Zelaska, Assistant Secretary of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Madam President, today I rise to pay tribute to Sharon Zelaska, who is retiring after serving for over 4 years in the demanding position of Assistant Secretary of the Senate, and who has contributed so much to the efficient operations of the Senate over those years.

She arrived in 1997, a stranger to the Senate but not to Capitol Hill, having worked for a dozen years previously as executive assistant to then Representative Jack Kemp. As Assistant Secretary she has been responsible for the day-to-day operations of the office of

Secretary of the Senate, no small task given that 24 departments report to the Secretary. Working closely with Secretary of the Senate Gary Sisco, she helped provide the best possible service to all one hundred senators individually, and to the Senate as an institution.

Since the post of Assistant Secretary was historically that of Chief Clerk, Sharon Zelaska had a chair on the rostrum specifically designated for her. She took that chair on ceremonial occasions, but on most days her real work was behind-the-scenes, managing the many departments within the Secretary's office.

As Assistant Secretary she spent countless hours working with senators and staff. Her door was open to every one to stop in for a cup of coffee and an opportunity to talk about important issues of the day. When department heads retired, new candidates needed to be interviewed and selected. Vouchers required signing, payrolls had to be adjusted, e-mail answered, and no end of paperwork completed. She did all that with a poise and sense of fairness that all who worked with her admired and will miss with her retirement.

I want to take this opportunity to thank Sharon Zelaska for all her contributions to the Senate over the past 4 years and to wish her Godspeed for a happy future in a well-earned retirement.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble 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. 110) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

COMMENDING BOB DOVE ON HIS RETIREMENT AS PARLIAMENTARIAN

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 111 submitted by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 111) commending Robert ''Bob'' Dove on his service to the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble 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. 111) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

HONORING THE ARMY ON ITS 226TH BIRTHDAY

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 112 submitted earlier by Senators ALLARD and HUTCHISON.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 112) honoring the United States Army on its 226th birthday.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLARD. Madam President, 226 years ago, the Continental Army was formed with the goal of ending tyranny and winning our freedom. Since the end of the Revolution, American soldiers, imbued with the spirit of the original patriots, have pledged their allegiance to our nation through their sacrifices in uniform.

All of our Army units, Active, Guard, and Reserve share the heritage of the Continental Army and their soldiers represent the finest men and women our Nation has to offer. Thousands of soldiers stand guard around the globe ensuring our freedom and doing the tough jobs that maintain our American way of life.

The proud tradition of the Army, dating back to 1775, has always stood tall. They are steeped in tradition, but ever flexible and capable of responding to a dynamic world. Now, the Army is transforming to meet the new demands of the 21st century. This new force will ensure that our national Command Authorities continue to have the ability to quickly and efficiently deploy land forces throughout the world.

Both in times of peace, and times of war, throughout more than two centuries, the soldiers of the Army have been poised and ready to answer the call of duty to defend this great Nation. The Army remains the best fighting force in the world: unchallenged and unparalleled. They are respected by their allies, feared by their opponents, and esteemed by the American people. Today, June 14, 2001, as the U.S. Army celebrates their 226th birthday, I ask that we reflect on the great legacy the Army has given this Nation and recognize our pride in our American soldiers' courage, dedication to duty, and selfless service to the Nation.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble 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. 112) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

MEASURE READ THE FIRST TIME—S. 1052

Mr. DASCHLE. Madam President, I understand that S. 1052, introduced earlier today by Senators MCCAIN, EDWARDS, and KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Mr. DASCHLE. Madam President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

TECHNICAL AND CONFORMING CHANGES

Mr. DASCHLE. Madam President, I ask unanimous consent that the previous consent with respect to technical and conforming changes be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO INCLUDE AMENDMENTS IN H.R. 1

Mr. DASCHLE. Madam President, I ask unanimous consent, notwithstanding passage of H.R. 1, on previously agreed-upon amendments where language was affected by amendments agreed upon later, that it be in order for these amendments to be included in the bill as previously was the intent of the two managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIRD READING OF S. 1

Mr. DASCHLE. Madam President, I ask unanimous consent that S. 1 be considered as having been read the third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 18, 2001

Mr. DASCHLE. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 1 p.m. Monday, June 18. I further ask that on Monday, immediately following the prayer and the pledge, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DASCHLE. Madam President, with this request having now been agreed to, the Senate will not be in session on Friday, as I have announced. On Monday, the Senate will convene at 1 p.m. with a period for morning business. There will be no rollcall votes on Monday. Rollcall votes will occur on Tuesday afternoon and throughout the remainder of the week as the Senate begins consideration of the Patients' Bill of Rights.

ORDER FOR ADJOURNMENT

Mr. DASCHLE. Madam President, I now ask unanimous consent that following the remarks of Senators BYRD, AKAKA, and WELLSTONE, the Senate stand in adjournment as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. WELLSTONE. Madam President, reauthorization of the Elementary and Secondary Education Act may be the most important step we will take during this Congress to affect what is surely one of the most crucial interests of the country—childrens' education. I have tried to devote appropriate attention and effort toward improving this bill. That is because I have believed since Committee consideration that it contains significant flaws. At the same time, we have improved the bill in important ways, and we have added substantial new commitments of federal funds for education. In my view, these improvements, plus the prospects for further improvement in Conference, outweigh my remaining serious reservations about policy contained in the bill at the present time. Therefore, while I pledge to continue in Conference to try to improve the policy and to assure funding, I have voted in favor of the bill today.

A number of weeks ago, I opposed bringing this bill to the floor in the absence of some assurance that sufficient resources would be provided to federal education programs. That issue remains among my deepest concerns and considerations. Along with other improvements we have made since that time, we have very substantially bolstered needed funding for federal education—especially by including mandatory, full funding for the Individuals with Disabilities Education Act, IDEA. This provision alone will mean over $3 billion for my state of Minnesota in IDEA funds during the coming 10 years. It will mean $153 million in IDEA funds for Minnesota in fiscal year 2001.

The improvements must be balanced against policy deficiencies—primarily in the area of mandated tests and the bill's so-called ''straight-A's,'' or ''performance agreement,'' provisions. My view is that if we at the federal level are going to insist on ''accountability'' from states, districts, schools and students, then we must be accountable to the principle that every student should have an equal opportunity to succeed. That means we must sufficiently fund the federal programs, such as Title I, IDEA and others, that attempt to give all students an equal chance. We all know that not every student arrives to school equally ready to learn. That is why it really is impossible to separate our presumption of holding schools and students accountable on one hand, from our own accountability to an obligation to sufficiently fund housing, nutrition and Head Start efforts on the other hand. We have not held ourselves accountable on that measure. We have avoided even debating this bill in that context. But if we will not meet that measure, and we have not, then we must at minimum ensure that federal education programs provide schools and students an equal chance at succeeding before we impose accountability and tests whose stakes can be very high.

My colleagues and anyone who has listened to much of the debate on this bill know that I have grave reservations about its annual testing provisions. Indeed, I oppose those provisions. I offered one amendment to remove the mandate for the tests if full Title I funding is not provided. I then cosponsored an amendment to allow states not to implement the tests so that they could utilize those funds instead for other means of boosting student achievement in the lowest performing schools .

I continue to believe that federally mandated annual testing of every student is a mistake. If it is implemented, I believe we will regret it. I say ''if'' because I hope the Senate will realize its mistake before the year 2005, which is when the first of these new tests would be required. I still intend to attempt at least to allow states to utilize the newly mandated tests for ''diagnostic'' purposes, rather than for the purpose of meeting adequate yearly progress targets. I hope that change can be made in Conference. If I do not succeed at that, I believe that we in Congress, the states and the public may very well reject these tests before they occur. I think they are unneeded, unwanted and most likely detrimental. The debate on what is becoming a mania for testing is just beginning.

We are making a significant mistake in mandating these new tests on every child, in every school, in every district and in every state. In the current context, it makes little sense. We have not even begun fully to implement the assessments we approved in 1994 with the last ESEA reauthorization. Yet we are moving to double those requirements and to expand their scope to cover every child in the country. We have not had a chance to look at the effect of those 1994 changes. Only 11 states have brought themselves into full compliance with that law. From what we have been able to look at, the evidence seems to indicate we should be very concerned about how these tests are being implemented and what their effect is on student learning.

I would like to cite a few reports that should send us a clear warning about what we are about to do. The Independent Review Panel on Title I which was mandated in the 1994 Reauthorization issued its report ''Improving the Odds'' this January. The report concluded that ''Many States use assessment results from a single test—often traditional multiple choice tests. Although these tests may have an important place in state assessment systems, they rarely capture the depth and breadth of knowledge reflected in state content standards.'' The Panel went on to make a strong recommendation. It said, ''Better Assessments for instructional and accountability purposes are urgently needed.''

I would also like to quote from the National Research Council, as cited in the Report ''Measuring What Matters.'' This report was developed by the strongly pro-testing Committee for Economic Development. The report says: ''policy and public expectations of testing generally exceed the technical capacity of the tests themselves.''

Everybody wants to find a way to address the critical challenge of closing the achievement gap. In people's genuine desire to do something about our schools, I believe they have created expectations from these tests, that far exceed what the tests can ever do. In fact, Robert Schwartz, the President of Achieve, Inc., the nonprofit arm of the standards-based reform movement recently said: ''Tests have taken on too prominent of a role in these reforms and that's in part because of people rushing to attach consequences to them before, in a lot of places, we have really gotten the tests right.''

In this rush for answers, the tests have ceased their useful function of measuring the reform and have become synonymous with it. That is exactly where this bill goes wrong and I believe that the consequences will be destructive. I believe that in the not so distant future, we will regret ever having done this. In fact, I believe that by the time these new tests are to go into effect, many if not most of the Senators in this body will have changed their mind on this issue.

My concerns are many and I have been over them before, but in summary, I am extremely concerned about how too much testing can subvert real learning. A Stateline News article from last week reported that:

> A yet to be released RAND study conducted in North Carolina found that between 50 and 80 percent of the improvements in student performance measured by tests are temporary and fail to predict any real gains in student learning.

RAND, which is one of the most respected research institutions in the

country, is not alone. A recent survey of Texas teachers indicates that only 27 percent of teachers believe that increases in TAAS scores reflect an increase in the quality of learning and teaching.

Much of this is due to the phenomenon of teaching to the test. The Committee for Economic Development, a strongly pro-testing coalition of business leaders, warns against test based accountability systems that ''lead to narrow test based coaching rather than rich instruction.'' Test preparation is not necessarily bad—but if it comes at the expense of real learning, it becomes a major problem. There is no question, at this point, that teaching to the test has become a problem. As an example, the recent Education Week/Pew Charitable Trust study, Quality Counts found that ''Nearly 7/10 teachers said instruction stresses tests 'far' or 'somewhat' too much. 66 percent also said that state assessments were forcing them to concentrate too much on what is tested to the detriment of other important topics.''

Beyond this detrimental phenomenon, which has proven to be more prevalent in low income communities, there is significant evidence that, at the very time we are trying to bring more teachers into low income schools and address a teacher shortage generally, the need to teach to the test and to provide education based on rote memorization and is driving people out of the field.

This is tragic at a time when we face an acute teacher shortage and we know that the single most important factor in closing the achievement gap between students is the quality of the teacher the students have. Both Linda Darling Hammond and Jonothan Kozol have addressed this issue when speaking to the Democratic Caucus. As Kozol said: ''Hundreds of the most exciting and beautifully educated teachers are already fleeing from inner-city schools in order to escape what one brilliant young teacher calls ''Examination Hell.'' I would like to quote from an article from today's New York Times that addresses this specific issue. The article explained: ''In interviews over the last month many fourth grade teachers questioned why they should stay in a job that revolves around preparation for new state exams . . . Principals say that they cannot keep experienced teachers in fourth grade or transfer them there.''

It would be remiss to talk about this issue without also addressing the fact that these tests are not perfect instruments. No one put it better than the strongly pro-testing Committee for Economic Development. These business leaders concluded that ''tests that are not valid, reliable and fair will obviously be inaccurate indicators of the academic achievement of students and can lead to wrong decisions being made about students and schools.''

For example, a study by David Rogosa of California's Stanford 9 National Percentile Rank Scores for individual students showed that the chances that a student whose true score is in the 50th percentile will receive a reported score that is within 5 percentage points of his true score is only 30 percent in reading and 42 percent on ninth grade math tests.

Rogosa also showed that on the Stanford 9 test ''the chances, . . . that two students with identical 'real achievement' will score more than 10 percentile points apart on the same test'' is 57 percent for 9th graders and 42 percent on the fourth grade reading test.

We have to take such error very seriously if we are attaching consequences to the test results for students and schools. If we do not, and we continue to over rely on a single, less than accurate test, our ability to fairly implement any type of accountability is in jeopardy.

When we rush to get them done and rush to attach stakes to them, we are ignoring the admonition of the National Academy of Sciences that our expectations for tests should not exceed their technical capacity. One of the most troubling quotations I have read in this regard is a quote from Maureen di Marco, Vice President of Houghton Mifflin company whose subsidiary, Riverside Publishing, is one of the major test publishers. She was cited in the Washington Post as saying that the Industry can only handle the Bush proposal as long as states make up the difference with off the shelf, national achievement tests that are mostly multiple choice and can be scored electronically. This would be destructive and take us in the opposite direction from where we must be going in terms of accurate, quality testing. Such tests are usually not aligned with standards and most often do not measure the depth of student knowledge or student reasoning. In fact, the Stanford-9, the test studied by Rogosa, is just this kind of test, that the companies are telling us we will have to rely on.

H. D. Hoover, one of the authors of the Iowa Test of Basic Skills and incoming president of the National Council on Measurement in Education said in a recent article that ''there is one heck of a capacity problem'' when it comes to meeting the testing requirements in this bill. So again, in this context, I fail to understand why we are rushing ahead with these new requirements. Why can we not at least wait until states have the knowledge and the opportunity to get the tests they have right before we move on to doing so many more. The Committee for Economic Development report clearly states ''there is more work to do in designing assessment instruments that can measure a rich array of knowledge and skills embedded in rigorous and substantive standards.'' Before we rush ahead, let's meet that challenge.

But I would not be being intellectually or personally honest if I did not say that even if we had the most perfect assessments, I still would have significant concerns with the use of tests to compare all students and to punish schools because we have still done so little to ensure that every student has the same opportunity to do well on those tests. That concern runs as deep as any I have. It is a fairness question. There are few bills we will face this year where the policy proposals and the funding that must back up the proposals are so inextricably linked. Without giving more resources to low income schools so they can develop the capacity to help their children do well, we will only set up children to fail. In punishing these students and these schools for their poor performance, I am afraid that we are too blindly confusing their failure with our own. It is in fact, a failure for policy makers to close our eyes to the resource starved schools in our urban and rural areas. It is a failure to think that by testing alone we can reverse years of neglect and deprivation.

A study of the Florida accountability system proves this point starkly. The study found that ''for every percent that poverty increases, the school's score drops by an average of 1.6 points.'' He showed that the level of poverty in a school in Florida predicted what the school's achievement score would be with 80 percent accuracy! Not one of my colleagues should be surprised by this.

Tests have their place, but they also have their limits. They can not give a kindergartener the early childhood education that his or her parents could not afford to provide. They can not hire a good teacher, they can not reduce class size, they cannot buy students' books and they cannot fix the heater in a school in Minnesota in the winter. Until we give every child these critical tools to do well, the tests will measure less a child's potential and more the accident of his birth.

My concerns with this bill are many, and they remain deep. But I also recognize that there is room for improvement and that the bill as it stands has many strengths. I very much appreciate the work that I and my colleagues have had the opportunity to do to improve this bill. I would like to highlight just a few of those improvements.

In the area of testing, I want to thank my colleagues for their support for three amendments that I worked very hard on and that I think will go far to ensure that we have high quality tests that are not abused. In ensuring the proper use of tests, we move to ensure that tests most accurately measure how students learn, not what they have memorized. We can more accurately see what it is that students have actually been taught. We can get a better picture of what students need and how they can best be helped.

The first is the amendment I introduced that would ensure that states show that their assessments are in

compliance with the National Standards on Educational and Psychological Testing and that their assessments are of adequate technical quality for each purpose for which they are used. The amendment also would provide $200 million in grants for states to improve their assessments so that they are of the highest quality and are state of the art in terms of most accurately measuring the range and depth of student knowledge.

These higher quality tests and fairer uses of tests are needed because low quality tests can lead to inaccurate assessments which do not serve, but rather subvert, efforts at true accountability and high standards. Further, if we want to avoid the negative outcomes that the wrong kind of testing can bring, such as teaching to the test and teachers leaving the field, we have to be sure that assessments measure students' depth and creativity. We have to measure what students have actually been taught and we have to measure student progress not just in a single point in time, but over time and in multiple dimensions. In doing so, teachers will not futilely train their students but rather will engage their students, and challenge them and explore with them their diverse talents. That way students will gain a deeper more enduring knowledge that translates to all different contexts and is useful when confronting all different challenges. This amendment will move us strongly in the right direction.

The second amendment would achieve the same effect as the first. This amendment took the incentive bonus grants that the bill included, which would have rewarded states for completing their assessments as fast as possible, and instead awarded the bonuses to states that develop the most high quality assessments. This way we will be able to incentivize states to move in the direction of developing the most effective assessments that lead to better teacher and learning.

The third was an amendment that I offered and which passed in the Committee that authorized an in depth study, conducted by the National Research Council, to address the impact of high stakes tests on individual students. I do not think there is a greater abuse of a test than to use it as the sole determinant of whether a student will be promoted or graduated. The Professional Standards on Educational and Psychological Testing, the National Research Council and virtually every major education and civil rights group agrees with this, yet states and districts persist in this practice. This amendment would look at this practice to determine what are its affects on students, teachers and curriculum. This study would serve as a guide for policy makers so they can understand better how tests can be used as a positive tool in children's education.

But beyond the testing provisions, other key improvements were included. None may be more important than the inclusion of the Harkin amendment which would provide full mandatory funding for IDEA.

The fact that we have finally decided to live up to the commitment we made too many years ago to fully fund the federal share of the Individuals with Disabilities Education Act is perhaps the greatest improvement of all. For too long we have shirked this responsibility and for too long children with disabilities have not received the services they need. We assume the responsibility to educate children with disabilities because it is their constitutional right and it is their moral right. But we must never forget that we also educate these children because we know that if given the right opportunities, the vast majority of them can succeed. Passage of this amendment helps make sure that children with disabilities are not pushed aside, that they get the services they need and that they have the opportunities to do well. With those opportunities, so many children can do well they do better than well. They excel.

Beyond this most important, most deeply rooted issue is that the program has created a significant, debilitating burden on states and districts when it is our responsibility, not theirs, to provide a large portion of the funding for these critical services to children with disabilities. While states have a constitutional mandate to provide equivalent educations to students with special needs, they do not have the financial resources to do so. It is shameful that for so long, the federal government has not lived up to its promise to provide its share of that funding. And it is with great relief and happiness that this funding, which so many of us have pushed for for years, is one step closer to being realized. This amendment will bring more than $3 billion in IDEA spending to Minnesota. This would make a real difference for children with disabilities and all children in the state. I am grateful to Senator HARKIN for his leadership on this issue and I believe that mandatory full funding for IDEA will make a world of difference for so many of our nation's children. I very much support this part of the bill.

Another critical area is the area of teacher quality. I am particularly pleased that the Senate has adopted an amendment that I introduced with Senators HUTCHISON, CLINTON, DEWINE and KENNEDY to establish a national Teacher Corps program to help states and districts recruit teachers into the nation's highest need schools. The teacher shortage we face amounts to a crisis and the problem is most acute in high need urban and rural schools. Even though research shows that the most important factor in student achievement is the quality of the teacher, the rates of underlicensed teachers in urban schools is twice that of the nation as a whole and in low income areas, 50,000 under-prepared teachers are hired each year. The passage of this amendment represents a national commitment to address this very severe barrier to learning.

I want to particularly applaud the work of Senator KENNEDY, who has fought more than anyone in the area of teacher quality. Senator KENNEDY included key provisions that would ensure that within five years, only highly qualified teachers are hired in high poverty schools. No one has worked harder on the issue of high quality teachers than Senator KENNEDY. When we think about closing the achievement gap between low and high income schools, this provision is essential. Several studies have shown that if poor and minority students are taught by high quality teachers at the same rate as other students, a large part of the gap between poor and minority students and their more affluent white counterparts would disappear. For example, one Alabama study shows that an increase of one standard deviation in teacher test scores leads to a two-thirds reduction in the gap between black-white test scores.

Finally, parent involvement is an area in which I believe the bill has seen substantial improvement. Parent involvement is one of the most important parts of any child's education. When families are fully engaged in the educational process, students have: higher grades and test scores; better attendance and more homework done; fewer placements in special education; more positive attitudes and behavior; higher graduation rates; and, greater enrollment in post-secondary education. For this reason, I am grateful for the inclusion of my amendment to establish local, community based parent involvement centers to help the lowest income communities and the communities like the Hmong community in Minneapolis and St. Paul where parents, because of language and cultural barriers, are most isolated from their children's educational experience. Senator REED's leadership on parent involvement has brought the issue to the forefront and his work has helped ensure that the benefits brought by greater family involvement in education would extend to all families.

In conclusion, there are many important issues with which we grapple in the U.S. Senate. But, my colleagues, I truly feel that there is nothing more important than the education of America's children. The opportunity to improve America's public education was one of the key factors that drove me to become a public servant and to run for election to this body nearly a dozen years ago. I am proud of the work I have done with many in this body on education at all levels in this country.

It is that passion to improve public education that is the reason that at many points during the last several months, as we moved to this point on the reauthorization of ESEA, I have been deeply frustrated. And, it is the reason that I am frustrated with this bill today. For all the reasons that I

have laid out earlier, I truly feel that in many ways we are missing a tremendous opportunity to take a significant step forward in bettering America's education system.

At the time of the final vote in our committee mark-up, I voted to send the bill forward to the full Senate. I was deeply conflicted about my vote at that point. However, along with several of my colleagues on that committee, I did so with the message that, as the process continued, the expansion of resources committed to education must come to match the elevation in our expectations about our schools' performances. On the Senate floor we have made a huge step forward in achieving that goal with the mandatory funding for the IDEA program. The inclusion of mandatory IDEA funding has gotten us part of the way there on the commitment of resources that was vital, in my mind to match the dramatic increase in testing required by an act that confuses educational accountability with standardized testing.

But, beyond this, we still have to make sure, that along with the passage of the Dodd-Collins Amendment on Title I, the Kennedy Amendment on Teacher Quality and the Boxer amendment on after school—there will be an adequate appropriation to match the authorization levels so we can truly help those students who are already so far behind where they should be. Without that, this bill will not work.

While this is a vote on the final passage of this bill in the Senate, we all know that much work remains to be done on this bill. Whether it is in testing or funding or defining adequate yearly progress, I think that most people on this side of the aisle know that this bill has a long way to go. I am committed to remain deeply involved in that important work that must be done in the weeks ahead. Therefore, I will vote ''yes'' today with perhaps the deepest ambivalence I have ever felt on a vote during my years in the United States Senate and with a message similar to the one I laid out when I voted to send this bill out of committee.

In particular, in the weeks ahead, as the Conference Committee does its work, I will continue to fight to strengthen the fairness and quality of the assessments that will be a part of the final bill. Specifically, I will continue to work toward an effective compromise. That compromise was included in an amendment which I filed and was prepared to put forward today. I decided that it would be more productive for me to wait until another day to offer that proposal. That amendment would keep in place the assessment system used for determining whether schools are achieving adequate yearly progress that was included in the 1994 reauthorization but has yet to be fully implemented. And, it would allow the annual testing to move forward. But, it would allow states and schools to use those additional annual tests only for the diagnostic purposes for which experts in the field of educational assessment say is their most appropriate use. That is, rather than being attached to sanctions for schools or individuals, assessments are best used to diagnose the academic strengths and weaknesses of individual students and to help them improve. Testing has a role in the educational system, but it should be used primarily to achieve what should be our ultimate goal: Helping our students live up to their true intellectual potential.

I will also do everything I can to fight for the retention of the IDEA amendment in the Conference Report and for other funding increases for Title I, Teacher Quality, after school and other key programs.

It is because of this desire to fight and because I see so much room for improvement that I am choosing to stay engaged in this process and I am voting yes. I believe we can do much, much more.

After today, however, there will be one remaining vote on this bill—on the bill that comes out of the Conference between the Senate and the House. My vote at that time will be based on the considerations I have outlined above. It is my sincere hope that the provisions in the bill related to the quality, fairness and appropriate use of tests will be stronger in the conference report than in this bill. There must also be an iron-clad commitment of resources to assist disadvantaged students in their educational opportunities. Finally, the bill must ensure full funding for the federal government's commitment to its share of our special education students' education. But, today, with deep ambivalence, I have voted ''yes'' on this bill with hope that we can continue to improve it and the education of America's students.

Again, I want to congratulate the Senators who supported this bill. I voted for it with a considerable amount of ambivalence. Making the IDEA program mandatory is hugely important to Minnesota and other people in the country. There were amendments on testing, and on recruitment of teachers, and dealing with parental involvement that I am proud of, which I worked on along with others who were a part of this bill.

When it goes to conference, I get to be in the conference committee. I am going to fight to make the testing diagnostic, without high-stakes consequences. The money needs to be there in appropriations. If we don't get the money for title I, if we are not able to make some of those changes, I may well vote against the conference report when it comes back to the floor. For right now, I want to keep on fighting.

I yield the floor.

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. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN DEFENSE OF FATHERS

Mr. BYRD. Madam President, recently there has been a spate of articles regarding the increase in the number of single parent homes, based upon the latest census data. Last month, Newsweek's cover story was ''The New Single Mom: Why the Traditional Family is Fading Fast, What It Means for Our Kids.'' The number of families headed by single mothers has increased 25 percent since 1990, to more than 7.5 million households. Although divorce and widowhood certainly contribute to this figure, the number of out-of-wedlock births has run at about one third of all births for the last decade, compared to 3.8 percent of all births in 1940.

Let me say that again. The number of out-of-wedlock births has run at about one-third of all births for the last decade, compared to 3.8 percent of all births in 1940.

Not all single parent households are headed by women. The number of single fathers has also increased, to just over 2 million families. Nevertheless, what I found most striking about the articles I read was the apparently growing trend of women who choose for whatever reason to put off marriage, but who still decide to go ahead and have children, whether by birth or adoption. The thinking seems to be: Don't settle for less than Mr. Perfect, but if the biological alarm is ringing, don't put off having children, either. As Father's Day approaches, I do wish to say a few words in defense of men, particularly men in the role of father.

Men are not perfect. I found that out at the beginning of the human race. Most will never be ''Mr. Perfect.'' I will be the first to admit that. Many men squeeze toothpaste from the middle of the tube and many men do not always put the cap back on the toothpast tube. Men have been known to drink from the milk carton before putting it back in the refrigerator. Some men cannot seem to find the dirty clothes basket for love nor money, and a few miscreants leave their dirty clothes tangled in inside-out knots. Men commonly are assigned the once-a-week 'glory' jobs like taking out the trash and mowing the lawn, leaving the daily burden of cooking, cleaning, laundry, and getting kids ready for school to their wives. This I hear from women on my staff, and it can be readily verified by asking any married woman within earshot. Fathers do not do their fair share of changing diapers, getting up in the middle of the night, reading bedtime stories, helping with homework, driving kids to sports practices and games, or shopping for school clothes. From this litany, one might suppose that women who elect to have children without the burden of also caring for a

husband are the smart ones. I do not advocate that, but in a sense they may be the smart ones.

But in defense of fathers—and that is why I take the floor at this time—we are not simply a drag on the family. Of course, it is a little late for me to be referring to myself as a father, except I am one. I am a father and past that stage now. I am a grandfather, and beyond that I am a great grandfather, great in the other sense, the true sense of the term. I am a ''great'' grandfather.

We are not as fathers simply a drag on the family, good only for bringing in our share of the family net worth.

Fathers add a different dimension to child-rearing that, historically at least, has proven its value. Fathers are often forced to be the ''bad cop'' to mother's ''good cop'' routine. Mother gets to be understanding and sympathetic, leaving the tough calls to dad, as in ''you'll have to ask your father,'' or ''just wait until your father comes home.'' It is dad who must say ''no.'' It is dad who leads the miscreant to the figurative woodshed. Fathers are often accused of being demanding, but they are no more demanding than one's future boss or coach will be. And it is dads who come to the rescue, dads who arrive with toolboxes at the scene of the automotive failure or at the scene of a plumbing crisis. Dads investigate the noises in the night.

Some fathers are overbearing, some are obnoxious sideline coaches, to be sure, but many more dads are patient teachers of baseball pitches and football catches. Some dads teach other skills, too, such as carpentry or plumbing, or working on the family car. Tiger Woods thanks his dad for encouraging him to play golf. Countless 16-year-olds have learned to drive with their father in the passenger seat, calmly saying, ''no, not this one but the other right turn'' while inwardly suppressing the desire to grab the wheel to make the turn.

It was the man who reared me, that old coal miner dad. He was the only father I ever knew, really, having been left without the tender love of a mother at the age of barely 1-year-old. The man who then took me to raise was my uncle by marriage. I did not know the difference until I was 16 years old. So to me he was dad, really dad.

It was he who nurtured me in a love of art and music. He didn't buy me a cowboy suit or a cap buster. As a matter of fact, he wasn't able to buy me very much of anything, but he bought for me watercolors; he bought drawing tablets; he bought pencils; he bought books—good books. He could hardly read himself, but as a coal miner he knew the worth of an education. He didn't want me to be a coal miner. He wanted me to have a better life. So he bought me a fiddle, a violin.

It was my old dad. He was the best dad I ever knew. He was the best dad, as far as I was concerned, in the world. I never heard him use God's name in vain, never, in all the years I knew him. I never heard him speak ill of his neighbor. I never saw him sit down at the table and grumble at the fare that was on the table. Not once, never. I never heard him speak ill to the good woman who raised me—his wife, my aunt.

When he died, he didn't owe any man a penny. He was as honest as the day is long; Humble, hard working, one of the truly few great men, in my opinion, that I ever knew.

It was that man who used to meet me on his walk home from the coal mines. In the evening I would look up the railroad tracks. We used to refer to directions as up or down—up the railroad tracks. They were really up because there was a little incline on the railroad track. So I always, late in the afternoons, looked up the railroad track as far as I could see to watch for him, the greatest man in my life. I watched for him. I could see him coming from a long way off. I can see him now: tall, black hair, red mustache, slender, carrying a watch in his pocket on a watch chain.

I would run to meet him. I knew that he had saved a cake for me. And so running along the railroad tracks, three or four crossties at a time, each time I would be running fast to meet him. He would set down that dinner bucket, he would lift off the lid, and then he would reach down and bring out a cake that he had put into his lunch pail. Here he had worked all day long in the black bowels of the Earth and the black dust of the coal mine heavy labor, but he had not eaten the cake; he kept it for me.

So he reached down into that pail, pulled out that cake, a real 5-cent cake back in those days, a 5-cent cake—usually two little cakes, perhaps with coconut icing, wrapped in a piece of wax paper, two little cakes for 5 cents.

How do I know? Because mother sent me to the store to purchase the groceries. She would tell me: Bring home the cake. I knew that cake was going into his dinner pail, but I knew he would save it for me.

So he would greet me with the tired hello of a man who had spent his day in the mines and he would give me the cake that he had saved from his lunch.

His work was demanding and physically draining. He probably could have used those extra calories, and the extra energy from that cake, but he always saved the cake for me.

He wanted better for me than he had had. He encouraged me in school. He demanded my best work. I know he would have helped me to go to college if he could have helped me. He certainly didn't want me to go to work in the mines. I never heard him complain about going there day after day and coming home tired with coal dust still in his eyebrows, perhaps in his eyelashes.

Dads like mine teach important values. They teach their sons to respect their mothers. They teach their sons to read the Biblical admonition, honor thy father and thy mother. They teach their daughters to expect and to demand that kind of respect from men.

They teach the value of work, and of giving one's best effort at whatever task is at hand. Like the Bible admonishes us: ''Whatsoever thy hand findeth to do, do it with thy might. . . .'' They reinforce the importance of family, and of teamwork. They push their children to achieve more than they did, and show their pride in their children's accomplishments. Dads like mine may not be flashy, as mine was not. They may not be demonstrative. But they are the solid backbone of the family, a refuge in times of trouble. They are enduring, much more so than networks of friends. They are enduring, meaning lasting, ever always the pillar of strength and refuge, much more so than networks of friends.

And, finally, fathers kill bugs, which alone is reason enough to keep us around, I think.

So, women, please, I urge you to reconsider. Most men make pretty good fathers. They love their children and they add value to their children's lives. Come Sunday, this Sunday, they will be delighted with the loud ties and cheap cologne—maybe cheap cologne—that are their due on Father's Day.

Madam President, I close with a bit of poetry that always brings to mind the kind man who raised me, who always set a fine example for me. I often think, if I were the man that he was, I could really feel good about myself. The bit of poetry is called, ''The Little Chap Who Follows Me.'' Most Senators, I am sure, have already heard it.

A careful man I ought to be;
A little fellow follows me;
I do not dare to go astray
For fear he'll go the self-same way.

I cannot once escape his eyes;
Whatever he sees me do he tries—
Like me, he says, he's going to be;
The little chap who follows me.

He thinks that I am good and fine,
Believes in every word of mine;
The base in me he must not see,
The little chap who follows me.

I must remember as I go,
Through summer's sun and winter's snow,
I'm preparing for that man to be,
A little fellow follows me.

Madam President, this former little chap salutes his old Dad, who is watching from the diamond towers and the golden streets of Heaven, and all the other fellows who rise to the challenge of setting a good example for the children who look up to them.

SENATE HISTORICAL EDITOR WENDY WOLFF

Mr. BYRD. Madam President, this week, the attractions of retirement will claim another highly valued Senate staff member. With deeply mixed feelings, I note the departure of Wendy Wolff.

Since 1987, Wendy Wolff has served the Senate as Historical Editor in the

Office of the Secretary. Viewers on C–SPAN will not observe Wendy in the Senate chamber or at committee hearings. She fulfills her professional responsibilities away from public view in the offices of the Senate Historian. Yet, it would be accurate to conclude that she has significantly left her mark on Senate history; she has even shaped Senate history.

I first met Wendy as she began to prepare the lengthy and complex index to Volume One of my four-volume history, The Senate, 1789–1989. Anyone who has consulted that first volume's index is likely to agree that it is most user-friendly. In 1989, Wendy assumed editorial responsibilities—as well as the indexing chores—for the remaining three volumes in that series. Over the next five years, she handled the countless tasks—many of them deeply challenging—that fall to editors and publishers of encyclopedia-length reference volumes.

Ten years ago, in the preface to Volume Two, I offered the following assessment of Wendy's contributions to that project.

> Her strong editorial hand has skillfully shaped this work from a disparate collection of speeches to what I believe is a carefully balanced and finely coordinated reference book. Tirelessly dedicated to this project from its inception, Wendy Wolff has maintained herein the editorial standards of Volume One and has convincingly guided the author away from tempting side roads. Her indexes to both volumes display a rich and impressively detailed knowledge of the Senate's historical structure.

Wendy's editorial hand and critical judgment have also shaped other Senate historical volumes. Among them are Senator Bob Dole's Historical Almanac of the United States Senate (1989); United States Senate Election, Expulsion and Censure Cases, 1793–1990 (1995); Senator Mark Hatfield's Vice Presidents of the United States, 1789–1993 (1997); Minutes of the U.S. Senate Republican Conference, 1911–1964 (1999); and Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861 (2001).

I know that I speak for Wendy Wolff's colleagues and other admirers in wishing Wendy Wolff a most enjoyable retirement. We won't ever forget her.

(Mr. BAYH assumed the chair.)

STATE OF PUBLIC EDUCATION

Mr. BYRD. Mr. President, not long ago, I came across a letter from Thomas Jefferson to his nephew, Peter Carr, which discussed the elements of a good education. In his letter dated August 19, 1789, Jefferson advised his nephew to divide his studies into three main areas: Give the principal to History, the other two, which should be shorter, to Philosophy and Poetry.

''Begin [with] a course of ancient history,'' Jefferson wrote, ''First read Goldsmith's history of Greece. . . . Then take up ancient history in the detail, reading the following books, in the following order: Herodotus, Thucydides, Xenophontis Anabasis, Arrian, Quintus Curtius, Diodorus Siculus, Justin.'' This, Jefferson wrote, would form his ''first stage of historical reading.'' Next, Jefferson wrote, he should read Roman history.

I remind Senators, this is Thomas Jefferson speaking. He then recommended reading ''Greek and Latin poetry.'' He advised reading Virgil, Terence, Horace, Anacreon, Theocritus, Homer, Euripides, Sophocles, Milton's ''Paradise Lost,'' Shakespeare, Pope and Swift.

Regarding the subject of morality, Jefferson advised, ''read Epictetus, Xenophontis Memorabilia, Plato's Socratic dialogues, Cicero's philosophies, Antoninus—I don't know whether he meant Pius Antoninus or Marcus Aurelius Antoninus; it could well have been both—and ''Seneca.''

I was pleased to see what Jefferson found to constitute a quality education. Those of my colleagues who have heard me speak to any degree over the years are probably a bit amused by at least some of the readings suggested by Jefferson. I suppose, to some extent, it sounds like a list of books that might be in my own personal collection. But, lest anyone get the wrong impression, I do not consider myself to be on par with that master thinker, Thomas Jefferson. But I have these, and more.

Although Jefferson did not have a degree as an educator, given his vast accomplishments, it seems foolhardy to argue with the merit of his advice to his nephew. As a contemporary wrote of the young Thomas Jefferson, he was ''a gentleman of 32 who could calculate an eclipse, survey an estate, tie an artery, plan an edifice, try a cause, break a horse, dance a minuet, and play the violin.'' May I also add, that he was the author of the Declaration of Independence and ''Notes on Virginia,'' the founder of the University of Virginia, an ambassador to France, a Secretary of State, a Vice President, and President of the United States.

In his closing lines to his nephew, Jefferson said, ''I have nothing further to add for the present, but husband well your time, cherish your instructors, strive to make everybody your friend; and be assured that nothing will be so pleasing as your success.''

Do you hear what he said? ''Cherish your instructors, strive to make everybody your friend.'' These simple but fundamental guidelines are as appropriate today as they were when Jefferson wrote them.

There is great wisdom in that letter. Wise council that I think we would do well to follow today. Jefferson obviously knew that a good education can make the difference in the life course of any individual. He knew the value of good teachers.

I have spoken on this floor, many times before, about my early years as a student in a two-room schoolhouse. I imagine that to those much younger than I, the pictures I paint with my remarks about my school, my teachers, and what I think makes for a good, sound education must seem distant and archaic. Sadly my experiences are a world away from the usual classroom climate of today.

Yet, I caution the skeptics to consider that there may be some advantages to accumulated years. I believe, for example, that our nation's experiences and experiments with education have taught at least one essential truth: the basic underpinnings of a solid education have been essentially the same throughout the history of civilized men and women.

I readily concede that the environment in my old two-room schoolhouse was a good deal different from the environment of the overcrowded schools of today. But I believe that those things which made for a good education then, those things which contributed most to learning, are the same today as they were when I spent my weekdays in a tin-roofed wooden building, overheated by the pot-bellied stove, reading Muzzy's history, in the 1920's.

In the school of my youth, we did not have computers, but we were plugged into our own imaginations. I had no television set.

Parenthetically, I doubt that I am better off. I probably would have been much worse off by having a television set.

But I had no television set with which to watch videos about distant, faraway lands, but I had the vision of my own mind's eye to see life beyond my own little corner of the world. Air conditioning? We opened the windows. Water fountains? We had waters from a nearby spring.

I used to go out in the summertime and lie down in the old springhouse—lie down on my belly, let the damp, cool ground touch my breasts, put my face, as it were, into that spring, and drink that cool water that bubbled from the white sands of the spring. And in school, I was always hoping I would be one of the two boys who would be sent by the schoolteacher over the hill to the spring to bring back water in a bucket for all of the children in the room. We drank out of one dipper—all of us. We didn't think anything about sanitation so much in those days, although we did read ''Hygiene.'' That was one of the books we read in school.

But I can remember in later years when my mom kept boarders in the coal camp, and we got our drinking water from a pump, one pump for every half dozen houses in a row of coal miners' homes. We would go out to the pump and bring up the water, pumping it up and down, and bring the water to the house. And the boarders, those coal miners who boarded at my mom's house, and I all drank from the same dipper.

We didn't have hard drives, but we were driven hard, to work, to learn, to succeed.

We had only two rooms in the little schoolhouses that I first attended, beginning in 1923, but those rooms were filled with students respectfully seeking to learn. We had dedicated teachers who expected the best from their students and they did not tolerate mediocrity nor did they tolerate bad behavior.

There was a category on that report card that had a designation spelled D-E-P-O-R-T-M-E-N-T: Deportment. I always knew that in taking that grade card home to my coal miner dad, he would look it over carefully, and he would look at that designation: Deportment. It had better be good.

In those modest two rooms, we were close to one another and we were close to our dear, dear teachers who loved us, who inspired us to learn, who inspired us to seek excellence. We sometimes had to share desks and rub elbows and actually touch—which meant that, whether we liked our classmates or not, we were forced to be civil to one another and to recognize our human bonds.

Teachers got to know their students. And, my, how I swelled with pride when my teacher would pat me on the top of the head and say: ROBERT, you did a good job. You did well on your test.

Teachers got to know their students, got to recognize their moods and individual needs. Teachers could see in the twinkle of their charges' eyes what motivated their charges, and they could hear in the collective groans of frustration what bewildered their charges. I had teachers who inspired me to learn.

I wanted that pat on the head. I wanted that pat on the back.

I wanted the other students to hear the teacher compliment me on having passed a hard test in spelling, doing a good job: 100 percent. ROBERT, you got 100 percent on your spelling test, and so on. And other boys and girls were likewise inspired.

I had teachers who seemed to be truly fulfilling a calling. Teachers in my youth could give hugs, and did. Teachers in my youth could enforce the rules, and they did.

Today, though crowded, distance seems to be the norm. Don't touch. Don't get too close. Don't get too involved. Don't spend too much time with one student.

After school, students walk out of the schoolhouse door and into an apathetic culture where passers-by don't bother to say hello, where neighbors often don't bother to learn other neighbors' names. Young people are growing up in our society lacking respect for their elders, lacking respect for their peers, and lacking respect, all to often, even for themselves. And, in our world of two-parent working families and single mothers, it is harder than ever for parents to provide the discipline, the guidance, and the moral compass that our children so desperately need.

Teachers are being led to feel that their place in a student's life ends at the last bell of the day. A well-meaning teacher, in our society today, can rarely take a real interest in a student's life beyond the schoolyard, without fear of being reprimanded by the school, without fear of being accused of some transgression, without fear even of being the subject of some lawsuit. There are plenty of well-meaning, talented, inspiring teachers in our schools today. But, they are up against a lot. Too often today, parents resent a teacher who disciplines their child. They put pressure on teachers to pass children who should fail, and they put pressure on principals to bestow honors on students who do not earn them. As a result, achievement is downgraded. Excellence is not encouraged. Expectations are lowered.

In my youth, we were less sheltered from the responsibilities and the realities of life than are the children of today. I know that may seem hard to believe. But I think it is true. Particularly in the coal camps where I grew up, we saw, up close, the consequences of our actions. Chores left undone, meant hardships for the entire family. Death was always lingering around the entrance to the coal mines. Hunger was a regular visitor. Money was scarce and it had real value. We saw what it was to work hard for a day's wages, only to have those wages eaten up paying for the most basic of life's necessities.

May I say to the youth of the country, and to the youth who sit in these Chambers on each side of the Presiding Officer's chair, my first job was in a gas station. They were not service stations in those days, they were gas stations. I remember the cold mornings of January and February 1935—my first job in a gas station. My pay? Fifty dollars a month. That is $600 a year. I walked 4 miles to work and 4 miles home, if I wasn't fortunate enough to be able to catch a ride on a milk truck or a bread truck.

My parents demanded a lot of me. They did not accept excuses. I knew that if I got a whipping at school, another was waiting for me when I got home or as soon as my parents heard about the whipping at school. As much as my mom and dad may have wanted me to have a better life than they had known, they seemed to know that the path to a better life was also a rocky one. They didn't try to pave my way. They told me the truth. They taught me to cut through the brush, to work hard to push barriers out of my way, and to climb over the hurdles that circumstances erected.

This is where I think we have failed, in many instances, our young people today. We shower them with material goods. We buy them a car to drive just around the corner to the schoolyard. We protect their egos like fine china. We encourage them to take the easy route. Books are dumbed down to make studies easier. Tests are abandoned or graded on a curve because too many students can't pass them. Our history books, so-called history books, are bland and inaccurate because we have changed the story, left out the heroes, and glossed over the ugly realities of our past.

Make no mistake about it, this country has made its fair share of mistakes. We have had more than a helping or two of ugliness. But to pick up a history book today and read of the politically correct Shangri-La portrayed within, you would hardly know it. How can we possibly expect our children to learn from our mistakes if we hide the realities of our mistakes from them? Sugar-coated history cannot teach.

My experiences have led me to conclude that for the sake of our children and for the future of our Nation we must insist upon a return to excellence. We need to teach the value of hard work. We ought not be afraid of it. I never knew anyone who died from hard work, except John Henry, the steel-driving man.

We need to honor and reward real achievement. We need to temper reward with reality. We need to insist on civility. We could do a lot of that right here in this Chamber. We need to encourage understanding, not deny differences. We need less high tech and more high standards. Above all—we have heard it so many times, I will say it again because it is true—we need to get back to basics.

We need to ensure that our children are provided a firm foundation in reading, in writing, in arithmetic, in science, in history. We need to ensure that our schools are places in which our students can learn. That is much of what we have been talking about for the last 8 weeks in this Chamber. That is much of what this legislation we passed today is about.

We need to ensure that the schoolhouse is a place of study, of hard work, not revelry. We need more, not less, discipline. It is time for a return to the days when traditional values like respect, loyalty, honor, and integrity meant something. A lot of us could also learn these things anew.

I truly believe that in our desire to find the cure to our educational problems, we have gone far afield. We have neglected perhaps the most important ingredient. High-tech gadgets, glossy textbooks filled with pictures but little narrative, costly frills, and bigger buildings are not the answer. The innate desire to learn that resides in the human spirit is the commodity that we are wasting. It is a precious commodity, indeed, and it will flow abundantly if given the attention, the direction, the encouragement that it needs to take firm root.

Challenge is the component which we seem to fear: Let's don't have challenge; Let's don't have too much competition.

Challenge a child to learn something difficult. Challenge a child to be the best in his class. I say that almost to every young person with whom I stop to talk: Be the best in your class; be the best. Make that child know that hard work pays off. Ask him for more,

not less. Encourage him to find his unique talents. Then work with those youngsters who have a tougher time; don't lower the standards, lift the sights. Encourage our children to reach as high as they can. Don't tolerate less. Reward them, then, for achievement.

Yet instead of challenging our children to do their best, I believe that all too often the focus of today's education system has become quite different. We have all been told that new theories and creative methods would bring new life to our failing public schools. We have put billions into almost every trendy remedy offered. We have tried everything from audio language labs to personal computers to team teaching to new math to teacher empowerment, and still we flounder.

According to the testing, we still suffer from a pervasive inability to pass on the accumulated knowledge of civilization from one generation to the next.

What is the problem? Well, the problems are legion. But the major problem, I suspect, is the systematic discarding of traditional scholarship as an agreed-upon goal. Instead many in the education establishment have opted for a strange form of psychological and social experiments in our schools and often with disastrous results that shortchange and even denigrate true academic achievement and excellence.

The goals, the ideals, the practices, and curricula have been altered over the past three decades, usually without the clear awareness of parents. The result is inferior standards both for the teaching of students and for the training of teachers.

The usual answer to such complaints is ''we need more money.'' Surely if we pour enough money into our education coffers, something of value will be produced. I used to firmly believe this golden rule of educational cause and effect. I am a little skeptical of it now.

In 1959–60, we were spending, on average, $375 per student in our public elementary and secondary schools. That amounts to $2,065 per student adjusted for inflation. In 1997–98, we were spending $6,662 for every child, roughly three times the amount we spent in 1959–60.

In inflation adjusted dollars, we are now spending three times more per child than in 1960, when in 1960 performance was generally higher than it is today.

According to the U.S. Department of Education's National Center for Education Statistics, in the fall of 1959, there were a total of 35 million students enrolled in America's public elementary and secondary schools.

In the fall of 1999, 40 years later, there were 46,800,000 students, an increase of 11 million students in 40 years. The pupil-to-teacher ratio in 1959–1960 was roughly 26 students for every teacher. In 1999, again, 40 years later, the student-to-teacher ratio had improved to roughly 16 students for every teacher. I am talking about full-time teachers. In other words, the data shows that there were fewer students for each teacher in 1999 than there were in 1959–1960.

I remember in my high school graduation class, there were 28 students who ended up with diplomas. That was in 1934. We had 28 students in my class, not 90 or 100. But there was discipline. We paid attention. We had teachers who demanded that of us, teachers who could teach, teachers who loved us, teachers who were dedicated, and we learned from them.

The growth of support personnel in the education area has mushroomed. Such things as reading specialists, guidance counselors, special ed teachers, clerical assistants, teacher's aides, have grown from 700,000 in 1960 to 2.5 million in 1999—almost a fourfold increase. And although America has one of the highest costs of education per student, it is not first in teacher salaries.

What do our dollars buy? We had 2,826,146 teachers in our elementary and secondary schools in 1998, as opposed to 1,353,372 teachers in 1959–1960. So we have roughly doubled the number of teachers we had 40 years ago. But we had 93,058 guidance counselors in 1998 compared to 14,643 in 1959–1960, or more than 5 times the number of guidance counselors.

We have poured money—and I have voted for it—we have poured money into title I funding. Yet we skimp on funding for the gifted and the talented. I got in on the ground floor when it comes to Federal education programs and funding for education. I was in the House of Representatives when there was a great debate as to whether or not we should spend Federal moneys on Federal programs for education. I have no problem with helping truly disadvantaged children gain good skills, but I fear that the definition of ''disadvantaged'' has been broadened to cover a variety of learning problems, and a good solid education is becoming less of a priority than identifying children for counseling or special help so that more title I funds will flow.

Our children's failure to learn is not, I suspect, the fault of poverty always. In some of the most poverty-stricken families I have seen in my lifetime, many of the best students were nurtured. So our children's failure to learn is not, I suspect, the fault of poverty always, or of being emotionally damaged by their environment, as much as it is due, in many instances, to faddism, political correctness, and a general failure to teach with tried and true methods.

I may be a bit vain—we are all vain—but I believe I could teach students. I don't know anything about the modern methods of teaching. I don't care about that. As far as I am concerned, I could teach those children. I am not a teacher, nor is every Senator in this body. A few Senators here have been schoolteachers. But I think most, if not all, of the Senators on both sides of the aisle could be good teachers—certainly in some subjects. I am not saying I would be a good teacher in chemistry or physics. But put me in a classroom with children, give me a good text book, and I could teach history, reading, spelling, and so on. So perhaps we spend too much time on methodology. I speak as a layman today, but I have some perception of what is going on in this country and some opinion as to what ought to be done.

One of my perceptions is that many teachers would have to spend a great deal of time on methodology, the newest method of teaching this or that subject. Just give me Muzzy's American History, and I am vain enough to think that I could teach. What I am saying is we probably expect too much of our teachers in many ways—teaching this new method and that new method—but not enough of substance, which has been here from the beginning. H2O was H2O when Adam and Eve were in the garden, you see. CO2 was CO2 way back yonder. So H2O hasn't changed since Adam and Eve were driven from the garden. It is still plain old water, drinking water; it tastes the same. It has not changed, much like human nature. That hasn't changed from the beginning, since Cane slew Abel. Men and women are still slaying one another.

So, in my view, we need to take an entirely new look at the way we fund education, at the way we train teachers, and at the curricula and the methods used on our children.

Our public school system has become top heavy with a whole host of people who are not directly involved with getting our kids to learn. We have more teachers, but fewer of them have degrees in the subjects they teach, and fewer of them see teaching as a lifelong career. We are turning our kids loose on the job market with too few tools and little or no appreciation for what a good education means for their futures.

Children who fail to achieve a college education will lose some $20,000 a year in income as adults. The former CEO of Xerox, David Kearns, estimates that poor schooling costs businesses some $50 billion a year in remedial work.

We are failing our kids and we are failing our kids in the most fundamental responsibility that we have to them—the responsibility to provide them with a good education.

Children need to know what is expected of them. Then they need to be given the tools with which to achieve their goals. They need to be told that it is a tough old world out there—a tough old world—and that the competition is global—not just in Sophia, my hometown of 1,160 souls. The competition is global. There will be no dumbing down of standards out there in that world. There will be no grade inflation out there in the real world. There will be no social promotion out there in the real world of global competition. It is going to be rough.

The consequences for a poor education will be lifelong, and the consequences will be harsh. And that is another thing that we should be teaching our children, namely, that there are consequences for one's actions and inactions. I do not view this bill through rose colored glasses as the definitive cure to what ails our educational system, but I think that bill that passed a little earlier today is at least a departure from the status quo. That legislation looks at education from new angles, and offers the chance—the chance—to get a better handle on the challenge before us.

The public school choice provisions offer some degree of hope, though limited, to parents who are fighting failing schools and trying desperately to give their children a solid education.

These are the most important people in the world: their children. These are the parents' most priceless possession: their children. No wonder people are searching for some other way. No wonder. They want their children to have the best. They want their children to have good teachers.

Furthermore, this legislation we passed today puts our public schools on notice that they must improve. So we are saying to the public school system, we are saying to the administrators in that system, we are saying to the principals and the teachers in that system, we are saying to the teachers union they must improve.

The bill also creates consequences if schools do not improve. So the time of reckoning is at hand. The legislation requires annual testing to track our children's progress in the areas of mathematics, science, reading, and history.

Moreover, the legislation insists upon a national gauge to more accurately measure public schools and to help compare what works and what does not work.

This bill also places an emphasis on teacher quality. When will we come to know in this country that no pricetag can be placed upon teacher quality? No pricetag. An emphasis is put on recruiting qualified teachers. When are we going to learn that a qualified, dedicated, conscientious teacher is worth far more than the finest athlete in this country, far more than the most clever, sharpest, most attractive network anchor man or woman? The teacher is worth far more—the teacher.

The teacher holds in his or her hands that most priceless resource possessed by this Nation. That teacher molds that child, its outlook, its attitude.

I took a piece of plastic clay
And idly fashioned it one day,
And as my fingers pressed it still
It moved and yielded to my will.
I came again when days were past,
The bit of clay was hard at last.
The form I gave it, it still bore,
And I could change that form no more.
I took a piece of living clay
And gently formed it day by day,
And molded with my power and art
A young child's soft and yielding heart.
I came again when years were gone,
He was a man I looked upon.
He still that early impress wore,
And I could change him nevermore.

That is the teacher. The responsibilities placed on a good teacher are heavy in today's world certainly.

How can we expect as a nation to continue to be a world leader with a population that is ignorant of the worth of a good teacher, a population that is ignorant of the basics in math, science, and history?

I understand that in some States history is not a required course in the curricula of public schools. What a shame. What a mistake. Cicero said: To be ignorant of what occurred before you were born is to remain always a child.

I am not talking about social studies. Social studies are all right in their place. I am talking about history. It has been considerably garbled these days. We try to change the facts of history, but the facts are there, and they ought to be taught. We ought to be plain about it, upfront about it, and try to profit by our mistakes.

Provisions that I supported in this bill are aimed at addressing the lack of qualified math and science teachers in this Nation.

At this point, I should also say that whatever dollar figure emerges from the House-Senate conference on this bill will place a burden on the appropriators to fund, given the tight budget constraints under which we will be laboring and the behemoth tax cuts which siphoned off many of the dollars which could have been used to pay for this bill, but if the President signs the bill that emanates from the conference, then I will assume—and I think I will have a right to assume—that the Appropriations Committee will have the help of the White House and the help on both sides of the aisle to provide the money to fund the bill.

I hope some of the new approaches contained in the bill will foster increased excellence among our Nation's schools, but I believe we are going to need further reform. While I can agree with the ''leave no child behind'' slogan which has characterized the President's education initiative and much of the debate on this legislation, I hope we also will endeavor to slow no child down if that child has extraordinary abilities. And the child does not have to come out of an affluent home to have extraordinary abilities.

I fear that sometimes in our approach to education we concentrate so much on bringing the slower students up to speed that we fail the child who can and should race ahead. And while testing for achievement is a good idea, it will mean little if the focus is on manipulating scores in order to make parents feel good or in order to capture more education dollars from the Federal Government for the school.

I don't believe in bumper sticker politics. I don't believe in bumper sticker education policy. It is time to look afresh at why we are failing our kids, regardless of whose flaws that fresh look may reveal. More money won't help if it is not properly used. More teachers won't help much if they are not properly trained. Our society has changed. There are more single-parent families and more families where both parents work today. Simple changes such as a 9-to-5 schoolday might do more to address some of the problems in our schools than all the counselors and afterschool programs we can fund.

Look at the other industrial countries of this world. They don't make life quite so easy as we like to do here in this country, apparently. We spend gobs of money, train loads of money—and I have voted for it for more than 50 years, 49 years to be exact—yet today we are not turning out the quality of students with quality education that many of our industrial competitors are turning out. They go to school longer in those countries and so the work is harder.

School uniforms might make students focus more on their heads and less on their bodies. The longer schoolday might do more to address some of the problems in our schools than all of the counselor and afterschool programs we can find. Better textbooks that utilize the tried and true methods of teaching could certainly go a long way toward shoring up basic skills. It might not be a bad idea to bring back the old McGuffy readers. An emphasis on classic literature and poetry could provide our youngsters with a glimpse of beauty and a sense of the spiritual side of human nature so absent in our empty, vulgar, popular culture. Clearly, there is much more to do in education than can be done in one single piece of legislation.

We cannot afford to lose another generation of children to fads. James A. Garfield, a President of the United States, who was assassinated, said: Give me my old teacher, Mark Hopkins, on one end of the log and me, myself, on the other end, and there will be a university.

So, it is the teacher, the child, and the attitude that count.

We cannot afford to deafen our ears to all views except those in the education establishment. We must strive again for excellence in learning and to return to proven methods, no matter whose toes it may step on. The public is outraged. The survival of the public school system is at stake, not to mention the future of our children and our Nation. I think the education establishment—meaning the administrators, the principals, the teachers, the teachers unions, and all—had better read the handwriting on the wall. A good public school system is what this Nation needs. It is what we want. That is what we have been spending millions of dollars for. But it is time to wake up, time for an accounting, time to understand that all things are not well in this public school system. And if we don't shape up—you talk about vouchers,

talk about private schools—you better be watching the handwriting on the wall.

Some years ago I traveled down to the old Biblical city of Babylon by the side of the Euphrates River and I visited a place where it was said that Belshazzar feasted with 1,000 of his lords. And as he feasted, blind and dying, there appeared on the wall near the candlestick, a hand. That hand wrote on the wall. And Belshazzar summoned all of his magicians and his wise men and asked them to interpret the handwriting that appeared on the wall. It seems to me the handwriting said: mene, mene, tekel, upharsin. I hope that is right. It has been a while since I read it: Mene, mene, tekel, upharsin. And the queen said, this young man who can interpret that writing, his name is Daniel. And so the king who was trembling, his knees were shaking, summoned Daniel.

Daniel was asked to interpret the writing. And he interpreted the writing to mean: God, thou art weighed in the balances and art found wanting. God hath numbered thy kingdom and finished it.

That night, Belshazzar was slain and his kingdom was taken over by the Medes and Persians. So we should see the handwriting on the wall. We better learn that the public school system needs to shape up. We spend billions on it. Parents need to back up their teachers and participate in the PTAs, and we should pay teachers, good teachers, salaries that are commensurate with their worth.

No football player was ever equal to the worth of a good teacher. No television anchorperson was ever worth more than a good teacher. That may sound like an extremist talking, but there is something to what I am saying. You better believe it. And I might say this, too. There is no politician who is ever worth more than a good teacher.

When American students do so poorly in international mathematics assessments that they score 19th out of 21 nations, the handwriting should be on the wall. It is clear that it is not vouchers that threaten our public schools. It is the inadequate education that our public schools offer and parental frustration that threaten to undermine confidence in public education. And it is high time that we realize that.

There are many public schools that are great schools. There are a lot of good schools in this country, and a lot of good teachers. But we need to lift the level of all the boats.

According to the U.S. Department of Education, nearly 1 million children have been pulled out of public schools and are being educated at home by their parents. That number is sure to grow.

Yes, parents are concerned by the violence that is occurring in the schools, concerned by the falling grades of their children, concerned by the lack of discipline in the public schools, concerned that for the money spent we are turning out worse students, generally speaking, than it used to be when we were spending far less money.

It is up to us who do believe in public schooling to see what is happening and to do whatever it takes to restore confidence in public education. We owe that to our kids. We owe that to their parents. And we owe it to the country we all claim to love.

FLAG DAY

Mr. BYRD. Mr. President:

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums,
A flash of color beneath the sky:
Hats off!
The flag is passing by!

Blue and crimson and white it shines,
Over the steel-tipped, ordered lines.
Hats off!
The colors before us fly;
But more than the flag is passing by.

Sea-fights and land-fights, grim and great,
Fought to make and save the State:
Weary marches and sinking ships;
Cheers of victory on dying lips;

Days of plenty and years of peace;
March of a strong land's swift increase;
Equal justice, right and law,
Stately honor and reverend awe;

Sign of a nation, great and strong
To ward her people from foreign wrong;
Pride and glory and honor, all
Live in the colors to stand or fall.

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums;
And loyal hearts are beating high:
Hats off!
The flag is passing by!

Mr. President, today is Flag Day. It is the birthday of our Stars and Stripes. It was on June 14, 1777, that the Second Continental Congress passed the resolution authorizing the creation of a flag to symbolize the new Nation, the United States of America.

This is not a federal holiday, but to me it is one of the most important days of the year. Flag day is our nation's way of honoring, celebrating, and paying our respects to the very symbol of our nation. As the poem says: ''more than the flag is passing by.''

Henry Ward Beecher explained that ''a thoughtful mind when it sees our nation's flag, sees not the flag, but the nation itself.''

More than this, Old Glory represents the values and principles of our nation. It commemorates our nation's glorious past, and it offers hope for an even more glorious future.

Born at the beginning of the American Revolution, the Stars and Stripes is a celebration of our independence and our freedom as well as our strength and our security. It was there, being raised and saluted during some of the proudest moments in our nation's history as in Iwo Jima in 1945 and on the Moon in 1969. And it has been there in every major conflict in American history as millions of young Americans have marched off to battle under the flag. It was at Fort McHenry during the War of 1812. It was there at Gettysburg, at San Juan Hill, and at Normandy.

But more than soldiers have been inspired and guided by our Nation's colors.

I can't begin to explain what a thrill it is for me to visit a school and see young children putting their chubby hands on their hearts and pledging allegiance to ''the flag of the United States of America and to the republic for which it stands.'' When I see such a sight, I feel confident for the future of our great land. Whatever our current troubles might be, I somehow know that everything will be all right. Our flag, as it has throughout our history, continues to transcend our differences, and affirm our common bond as a people and our solemn unity as a great Nation.

The United States Senate now begins each morning by pledging allegiance to the flag. Speaking those few, but stirring, words, while looking at Old Glory, still inspires me and reminds me of how fortunate I am to be an American, to be a West Virginian, and to be a United States Senator.

On Flag Day, 1917, President Woodrow Wilson noted: ''though silent it [our flag] speaks to us'' and indeed it does.

It speaks to us of great events—of our liberty; of our history; of our future. It speaks to us of the freedom that is the basis, and the enduring promise, of our Republic.

''Hats off,'' Mr President, ''the colors before us fly; But more than the flag is passing by.''

I close by citing those memorable, moving lines from the second stanza of our national anthem:

Tis the Star-Spangled Banner. O long may it wave
O'er the land of the free and the home of the brave.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with, and that I be allowed to proceed in morning business for 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

IN MEMORY OF VERNA ''SUZY'' JOYCE, DEDICATED PUBLIC SERVANT, WIFE AND MOTHER

Mr. LEVIN. Mr. President, I rise tonight to pay tribute to Suzy Joyce who passed away today Thursday, June 14, 2001. Her sudden and untimely death leaves a void that for those who knew and loved Suzy will never be filled.

Born Verna Joyce, but called Suzy by those knew her, in North Carolina on

September 15, 1957, Suzy began work in the United States Senate over two decades ago as a cashier in the Senate Restaurants. Since 1986, I had the privilege of having Suzy on my staff. During her tenure on my staff, she was a model employee whose expertise, dedication, diligence and attention to detail enabled my office to respond to constituents efficiently and effectively.

Suzy played a vital role in advancing and modernizing our office's mail system. She arrived in the era of carbon copies and mimeograph machines, but she helped implement a new mail system that responds to the needs of the computer era when letters are as likely to arrive by email as they are by the US Postal Service. While my constituents may have never had the opportunity to personally meet Suzy, tens of thousands of them received constituent services, United States flags flown over the Capital and heard from me by mail because of her organization and efforts.

Suzy was more than a dedicated employee. She was a warm and friendly woman whose infectious smile, sense of humor and love for the Pittsburgh Steelers filled our office, and earned her friends throughout the Senate. It seems as if everyone knew Suzy. She was the one who welcomed interns and told my staffers, who are prone to working long days, to remember to call their parents. When members of my staff went to the Senate Printing Office or the Architect of the Capitol, they were often admonished with orders to say ''Hello to Suzy.''

I wish that more of my constituents had the opportunity to meet Suzy and her husband Rick. The two of them worked together in the United States Senate, and this is a better place because of them.

Suzy and Rick's dedication extended far beyond work. They were dedicated to each other, their three children, their family and their God. Together, they embodied the American values of hard-work, faith and loyalty. Suzy and Rick, both natives of North Carolina, recently celebrated another anniversary together. Their love for each other was evident to all. Rick works as the Facilities Supervisor under the Office of the Superintendent, and Suzy would come into work with him, hours before our office opened so that she could ride to and from work with him. After work, Suzy frequently volunteered at her church where she was a regular attendee and an important contributor. She is survived by three wonderful daughters: Andrea, Candice and Dawn of whom she was extremely proud and talked about frequently.

One never is able to prepare for the death of a friend or loved one. However, I trust that the friends, family and faith that were so important to Suzy in her life will continue to sustain her family in the days, months and years ahead. I and my staff will keep Suzy Joyce and her family in our thoughts and prayers. I know that the Senate family joins me in offering their condolences to the family of Verna ''Suzy'' Joyce on the occasion of their great loss.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 1 P.M. MONDAY, JUNE 18, 2001

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 1 p.m. Monday, June 18, 2001.

Thereupon, the Senate, at 8:30 p.m., adjourned until Monday, June 18, 2000, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate June 14, 2001:

DEPARTMENT OF THE INTERIOR

FRANCES P. MAINELLA, OF FLORIDA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE, VICE ROBERT G. STANTON, RESIGNED.

JOHN W. KEYS, III, OF UTAH, TO BE COMMISSIONER OF RECLAMATION, VICE ELUID LEVI MARTINEZ, RESIGNED.

DEPARTMENT OF STATE

DANIEL C. KURTZER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

RUSSELL F. FREEMAN, OF NORTH DAKOTA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

CLARK KENT ERVIN, OF TEXAS, TO BE INSPECTOR GENERAL, DEPARTMENT OF STATE, VICE JACQUELYN L. WILLIAMS-BRIDGES, RESIGNED.

RICHARD J. EGAN, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO IRELAND.

VINCENT MARTIN BATTLE, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES C. RILEY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM S. WALLACE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. LARRY R. JORDAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BENJAMIN S. GRIFFIN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. LEON J. LAPORTE, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate June 14, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

JAMES LAURENCE CONNAUGHTON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE COUNCIL ON ENVIRONMENTAL QUALITY.

ENVIRONMENTAL PROTECTION AGENCY

STEPHEN L. JOHNSON, OF MARYLAND, TO BE ASSISTANT ADMINISTRATOR FOR TOXIC SUBSTANCES OF THE ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

CHARLES A. JAMES, JR., OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

EXTENSIONS OF REMARKS

FLAG DAY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. GRAVES. Mr. Speaker, it is an honor to rise today on Flag Day to extend my appreciation to our veterans and the men and women in our Armed Forces for their service and protection in both peace and war.

I am honored to attend the 13th Annual Flag Retirement Ceremony on Saturday, June 16, 2001, hosted by the American Legion Stanley Pack Post #499, in Blue Springs, Missouri. American Legion Post #499 has a long history of providing a ceremony to lie to rest our colors. The members of the American Legion Post #499 have tirelessly dedicated their time to honor our nation's flag and share with our citizens, both young and old, their respect and admiration for the flag and all that it represents.

As American Legion Post #499 lays these tired flags to rest, we are mindful of the glory of our nation and the rights and freedoms that we share. The 13 red and white stripes not only represent our humble beginnings as 13 British colonies who fought bravely to gain us freedom but also the purity of our national purpose and the blood of our brave men and women in uniform who selflessly stand ready to defend our nation.

There is no better symbol of our country's values and traditions than the flag of the United States of America. It continues to exemplify the profound commitment that our founders made to freedom, equality, and opportunity more than two centuries ago. The flag flies with magnificent glory from public buildings, covers hero's tombs as a remembrance of their bravery, and serves as a daily reminder to all of us that the blessing of democracy and peace should not be taken for granted.

It is important that we teach our children the significance of our flag. Today, our nation renews its allegiance to our flag. Together, we stand collectively to honor its glory as its vibrant colors continue to wave through the skies that blanket the dreams and hopes of our beloved America. This truly is the land of the free and the home of the brave, and I am honored that we can share and enjoy the peace and the prosperity of this great nation.

H. CON. RES. REGARDING OIL AND GAS PIPELINE ROUTES THROUGH THE SOUTH CAUCASUS

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CROWLEY. Mr. Speaker, I am pleased to join my colleagues, Congressman JOSEPH KNOLLENBERG, Congressman FRANK PALLONE, and Congressman JOHN SWEENEY, in offering this House Concurrent Resolution. This resolution seeks to ensure a just and equitable regional arrangement that will strengthen political, economic and security ties among all the nations of the South Caucasus.

Mr. Speaker, I am greatly concerned by the National Energy Policy Development (NEPD) (Group recommendation to support the Baku-Ceyhan (SAY-han) pipeline. Along with my colleagues, Mr. KNOLLENBERT, Mr. PALLONE and Mr. SWEENEY, I will be sending a letter to the President urging him to reexamine the NEPD Group recommendations regarding the Caucasus. I am also asking that he review all current and future oil and gas pipeline routes to ensure that all countries of the South Caucasus are included.

The proposed Baku-Ceyhan pipeline route originating in the Azerbaijani capital of Baku and terminating at the Turkish port of Ceyhan via Georgia, explicitly bypasses Armenia at the insistence of Azerbaijan. The demands by Azerbaijan to bypass Armenia come despite the knowledge that a trans-Armenia route is the most reliable, direct and cost-effective route, and certainly one of the most tangible actions in support of regional integration and cooperation.

Armenia's exclusion from regional economic and commercial undertakings in the South Caucasus hinders U.S. policy goals of promoting regional stability based upon the development of strong political, economic and security ties among all countries of the Caucasus and the United States. Exclusion of one country in regional projects only fosters instability.

Armenia must be included in regional and trans-regional economic plans and projects. Only then can stability in the Caucasus be fostered. Encouragement of open market economies, increased trade and international private investment will lead to regional prosperity for all the countries involved. No one country should be excluded. Moreover, it simply does not make sense to choose a far more costly option that excludes Armenia, because of political considerations that do not benefit either the countries of the region nor the U.S. The proposed Baku-Ceyhan pipeline is estimated to cost more than $2.7 billion. A pipeline that includes Armenia, a route that is more direct would reduce the pipeline costs by a minimum of $6 million. That is a significant savings. That is a cost savings not only for the region, but for U.S. taxpayers who are helping to fund planning and implementation of the South Caucasus pipeline projects.

Finally, I should note that Armenia has been a strong ally of the U.S. in the region. With a well-educated and highly skilled population, it is a country moving towards democracy and an open economy. We simply cannot afford to alienate a proven friend and ally in the region.

In closing, I want to urge the President to give additional thought to the proposed Baku-Ceyhan pipeline and to have the foresight to include Armenia in that project, both for the good of the region, and for the good of U.S. policy in the region.

RECOGNIZING CONTRIBUTIONS, ACHIEVEMENTS, AND DEDICATED WORK OF SHIRLEY ANITA CHISHOLM

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 12, 2001

Mr. RANGEL. Mr. Speaker, I rise before you today to join with my colleagues in honoring one of the most dedicated and respected legislators of our time—former Congresswoman and civil rights leader Shirley Anita Chisholm.

It is said of Shirley Chisholm that she was a passionate and effective advocate for the needs of minorities, women, and children and that she truly changed the nation's perception about the capabilities of women and African-Americans. Well, while that may well be true, Shirley Chisholm was that and so much more.

I had the distinction and pleasure of serving with Shirley Chisholm in the New York State Assembly in the mid 1960's and later here in the Congress where she was the first African-American woman elected to Congress, and witnessed firsthand just how much of a pioneer and visionary she was. She didn't fear entering the male-dominated Brooklyn political arena, nor the New York State Legislature, nor this Congress, and she did it with the ebullient style and determination that was Shirley.

Her enduring spirit and foresight, lead her to take the biggest step of all when she ran for the Democratic presidential nomination in 1972, only seven years after Blacks were given the right to vote. It was through this venue, that Shirley Chisholm was able to focus national attention on the issues that mattered most to her. She became a powerful spokesperson for the Democratic Party. Though she was not successful in her bid, her running was symbolic. It encouraged other Blacks and women to participate in politics; it opened the door to later campaigns, and it sent the message that Black politicians had arrived.

For many years, Shirley Chisholm has given leadership to the struggle for equality and human rights for all people. Her life exemplifies her passionate commitment for a just society and her vision for a better world. Throughout her political career, her tireless efforts lead her to take on such issues as women's rights, funding for day care, job training, fair housing, and environmental protection just to name a few. She also fought against credits to defray the cost of going to private schools fearing it would diminish the quality of public schools.

Shirley Chisholm was an outspoken leader. She worked for the reform of U.S. political parties and legislatures in order to meet the needs of more citizens. She was a severe critic of the seniority system in Congress and protested her 1969 assignment to the House Agriculture Committee. She soon won reassignment to a committee on which she felt she could be of greater service to her district.

Shirley once said, "We must build new institutions or reform old ones so that there are avenues of upward mobility and achievement that will allow all citizens, black and white, to maintain creative tensions between themselves. If we fail, this nation will be poorer for it and if we succeed, it will be richer indeed."

Mr. Speaker, I thank my colleague Representative BARBARA LEE, for affording Members the opportunity to mark this occasion recognizing Shirley Chisholm who is a true public servant, a champion for all people, and a woman whom I am proud and honored to call my friend.

A TRIBUTE FOR FATHER'S DAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. HONDA. Mr. Speaker, in light of the fact that this Sunday is Father's Day, I would like to share with you a letter sent to me by the stepson of a dear friend of mine. I believe it captures the essence of this important holiday for Dads, like myself, all around the country.

DEAR MR. HONDA: While my name may not be familiar to many in Washington, D.C., I'm sure that the name of my stepfather will—Norm Mineta.

This past year has been an amazing journey for my family—and for my family, that's really saying something. My stepfather's life reads like a story one would learn about in a history book or a novel. At the age of twelve, he was taken from his house and detained in an internment camp along with 120,000 others in this nation who happened to be of Japanese ancestry.

After the Second World War ended, he and his family returned to San Jose and he attended and graduated from the University of California Berkley. Later, during the Korean War, he joined the Army where he served as an intelligence officer. After his military service he worked in the family business at the Mineta insurance company until once more he answered the call to public service. Norm served in the San Jose City Council, as the Mayor of San Jose, and 21 years as the Representative for the 15th Congressional District of California.

After he left the Congress, he worked for Lockheed Martin as senior vice president for almost five years until President Clinton tapped him for the position of Commerce Secretary. After the 2000 election, President Bush chose him to serve America once more as the Transportation Secretary.

Norm's list of firsts is beyond impressive—it's amazing. He was the first American of Japanese descent to serve as a Mayor of a major city in the continental United States. As the Chairman of the House Committee on Transportation & Infrastructure, he was the first Asian Pacific American to serve as Chairman of a full Committee in the U.S. House of Representatives (Chairman of the transportation committee). He was also the first Asian Pacific American to serve on any President's Cabinet, and the first Cabinet member to serve in successive administrations for two different political parties. And this only scratches the surface. You could fill volumes with all of my stepfather's achievements. In fact, someday, I'm certain they will. But there is a deeper reason why I am writing this letter.

As I witnessed all of the events taking place in my family's life over the past year, and I read all of the articles and stories about my step dad's life, and I heard all of the speeches, I noticed that something was missing—the most important something. Who Norman Y. Mineta really is, not just what he has done in public life.

Norm is one of the kindest, most decent man I have ever been privileged to know. He embodies what the Founding Fathers envisioned when they set up our system of government. He is a man who truly cares more about others than he does of himself. He does not seek glory, but rather takes pride in bettering the lives of others. Most importantly, he is humble.

As a Member of Congress, Norm would go to events at the White House, as other important people did. He would stand in the receiving line to meet the President and when his time would come he would shake the President's hand saying, "Hello Mr. President. I'm Norm Mineta from California." To which every President would respond, "Norm, I know who you are." Later he would say to my mom, with wonder in his eyes. "The President said he knows who I am!"

Norm Mineta is a man who puts family above all else. His biography in "Who's Who in America" does not describe how he canceled all of his plans the day my family's dog, Tribble, died. His resume does not reflect the pride he felt when my stepbrother, Dave Mineta, was elected to the school board of Pacifica, California. Nor do the official records of the Congress contain the fact that he cried when Dave asked his father to swear him into his new position on the school board. Norm was so excited when my brother Mark and his wife called home to tell the news that they were pregnant with their first child. As a father, he took as much pride in the fact that in my stepbrother, Stu Mineta, was hired at a regional airline as a pilot as he did in his own appointment to the Cabinet.

After coming home from a long day at the office, Norm would always takes times, and considerable joy, in playing with his two dogs. Norm has been known to fall asleep whenever the family comes together to watch a movie. Watching a movie on video with Norm often involves constantly prodding him to make sure he is still awake. Often times he will fall asleep, but deny this to us when we call him on it. Norm has been a wonderful husband to my mother in more ways than I could ever begin to describe. He refers to my mother as "honey" and "dear" in public, but in private, he calls her "pal," and that is what they truly are—the best of friends.

My life with Norm has been a wonderful blessing. Life doesn't always happen the way you plan and sometimes people get divorced. Such was the case with my mother and father. And to this day, I love my father very much. I have been blessed twice, for God brought into my life Norman Mineta. A man whom history will remember much longer than it will remember most of us. I am also very fortunate because Norm is a man that I will remember is ways that the history books will never be able to capture. Our nation will remember Norm as many great things, veteran, Mayor, Congressional leader, two-time Cabinet Secretary, but the greatest of these titles and accolades to me, will always be "Dad."

Sincerely,

BOB BRANTER.

RECOGNIZING VALLEY HOSPITAL IN RIDGEWOOD, NEW JERSEY

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to congratulate the Valley Hospital in Ridgewood, New Jersey on the occasion of their 50th anniversary. From a small and difficult beginning, the Valley Hospital has become a premier example of quality and commitment to medical excellence. This weekend, the Valley Hospital will be honored as a Hermitage Pioneer Corporation at the Hermitage Rose Ball in Ho-Ho-Kus, New Jersey. It is an honor to recognize this hospital for their service to northern New Jersey.

The Valley Hospital opened its doors in 1951 with 108 beds, 22 bassinets and 268 physicians and employees. Over 4,700 patients were admitted and served by the hospital. Through their exceptional leadership and vision, Valley has expanded and continually met the changing healthcare needs of the ever-growing community. I am proud to say that Valley now has over 600 physicians and 3,000 employees. Last year the hospital served 42,540 patients and welcomed 3,221 babies. Under Mike Azzara's guidance as Chairman of Valley Health Systems, and Audrey Meyer's leadership as President and CEO of the Valley Hospital, the hospital has entered the 21st century as a premier provider of health care in not only New Jersey but the entire Northeast United States.

This achievement has not come without a struggle. Plans to open a hospital in northwest New Jersey began nearly forty years before ground was broken. Community groups gathered to raise money for a hospital, however, the stock market crash and the Great Depression stalled their attempts. Under the leadership of the Women's Auxiliary in 1944, local residents donated almost $1,000,000 to break ground in 1949.

The Valley Hospital exists because of a determined group of local citizens who very early on saw a need and overcame the odds to make this into a reality. This is the classic American dream. Such outstanding dedication is still visible in the hospital today as the Valley Hospital looks forward to the needs of the next fifty years.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in commending the Valley Hospital for its service to the community, and recognizing those committed to continuing its tradition of excellence.

HONORING PAUL WENDLER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute and express gratitude to my good friend Paul Wendler for his many years of service and for his significant contributions to the conservation of wildlife and natural resources in Michigan and the entire Great Lakes region.

Paul has dedicated his life to making his community a better place to live for all citizens

and he has earned many plaudits and awards for his numerous accomplishments. From his outstanding record of achievement in management with the Saginaw Steering Gear Division of General Motors Corporation to his tenure as Mayor of the City of Saginaw and his successful efforts to build the Saginaw Civic Center, Paul's energetic and enthusiastic leadership has served as a towering model for others to emulate.

While his extensive involvement in community service has extended to a wealth of projects, Paul's particular passion has been his devotion to preserving the vitality and abundance of wildlife and natural resources throughout our state, nation and the entire world. His membership in conservation and sportsmen's clubs are too numerous to list, but his vast experience in the conservation movement includes many leadership roles, among them his position as President of the Michigan Wildlife Foundation and President of the Michigan United Conservation Club.

Throughout all his years of community and public service, Paul has never sought the limelight for himself nor has he accepted full acclaim for his achievements. He has always been the first to share credit and to suggest that others played a far greater role. He would be the first to acknowledge the significant contributions others have made to his success, including the vital support of his family. Paul's wife, Phoebe, and their children, Paul, Anne and Gretchen, have shared his love for our precious natural resources and they have been an important part of his efforts to protect and preserve the environment.

Mr. Speaker, I ask my colleagues to join me in expressing gratitude to Paul Wendler and his family for their commitment to conservation. I am confident that they will continue to work hard to ensure the viability of our woods and waterways well into the future.

CYPRIOT ACCESSION TO THE EUROPEAN UNION AND THE ONGOING DIVISION OF CYPRUS

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CROWLEY. Mr. Speaker, I submit for the RECORD my statement from the Committee on International Relations Subcommittee on Europe hearing on June 13, 2001.

Mr. Chairman, I am pleased to have this opportunity to speak in strong support of the U.S. relationship with these three important countries: Greece, Cyprus and Turkey. However, I would like to speak, in particular, about two key issues which have no doubt been the focus of this hearing today—that of Cypriot accession to the European Union (EU) and the ongoing division of Cyprus.

In its conclusions at Helsinki, the European Council, in December of 1999, welcomed the launch of proximity talks that year aiming at a comprehensive settlement of the Cyprus problem. The Council further noted that, while a political settlement of the Cyprus problem would facilitate accession of Cyprus to the EU, it would not be a precondition to accession. In his confirmation hearing held on March 20, Undersecretary of State for Political Affairs Marc Grossman stated that we must impress upon the Turkish Cypriots and the people in Ankara that they have got to get involved in the stalled proximity talks. A settlement to the problem would surely be a welcome development for all the governments involved.

Most of us understand that accession of Cyprus to the EU will provide a much-needed impetus to a political solution. But, what Turkish Cypriot leader Rauf Denktash must understand is that Cyprus will accede to the EU whether or not he returns to the negotiating table. Because Cyprus is divided, I fear the people living on the northern part of the island under Mr. Denktash's rule, will not benefit from EU membership. The north must rejoin the rest of the island so that its people can share in the wealth, both political and economic, which EU membership has to offer. Mr. Denktash's recalcitrance will not block the Cypriot government from reaching its goal. What Mr. Denktash must decide is whether or not he wants to be a productive part of Cyprus' future. I truly hope, for the sake of all Cypriots, that he elects to do so.

The people of Cyprus, with their long and rich cultural and political history, deserve far more than to see their island forever divided because of misguided political aspirations. There must be a reunited Cyprus, one that is bizonal, bicommunal and federal, created on the basis of the United Nations Security Council resolutions. I urge Mr. Denktash to return to the negotiating table once again so that a negotiated settlement can be reached. EU accession for Cyprus will benefit everyone: the U.S., Greece, Turkey, and all of Cyprus' other allies. Cyprus must take its rightful place in the community of nations as a strong, unified country with the opportunity to grow and prosper economically, to be afforded the same legal, political and social rights as other nations. Cypriot accession to the EU will begin that process, but resolution of the political problem dividing the island will provide the ultimate closure Cyprus needs to move forward.

In closing, I would like to commend my colleagues, Congresswoman Carolyn Maloney and Congressman Michael Bilirakis, for introducing a House Concurrent Resolution in support of Cypriot accession to the EU. I am proud to be a co-sponsor of that bill.

TRIBUTE TO UNIVERSITY OF SANTA CLARA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. HONDA. Mr. Speaker, I rise today to honor the Sesquicentennial Anniversary of the University of Santa Clara.

The University of Santa Clara became California's first institution of higher learning in 1851 and is celebrating its Sesquicentennial Year in 2000–2001, on the same campus it has occupied continuously since its founding. This campus is home to the beautiful Mission Santa Clara.

The University of Santa Clara excels in meeting its goal of educating women and men of competence, conscience, and compassion. The more than 55,000 alumni of Santa Clara University are leaders in business, industry, government, the spiritual community, education, the arts, athletic endeavors and civic life throughout the United States. The University of Santa Clara began its graduate division in 1912 and today provides highly respected graduate programs in Law, Business, Counseling Psychology, Education, Pastoral Ministries, and Engineering.

The University of Santa Clara opens its doors to the community twelve months a year with special programs, exhibits, and events that inform and entertain visitors to the campus. Outstanding leaders of Silicon Valley, the Bay Area, and the world are regularly welcomed to visit the University and share their experiences and insights. The campus community of the University of Santa Clara includes many individuals who serve on community and church boards. These community members also dedicate hours of volunteer time to homeless shelters, elementary and secondary schools, to those who seek justice; in short, they participate fully with the broader community.

In California, a state that leads the nation in accepting immigrants from around the world, the University of Santa Clara continues to be committed to preserving ethnic and cultural diversity on its campus.

Mr. Speaker, it is an honor to pay tribute to the University of Santa Clara on its Sesquicentennial Anniversary, and I commend and congratulate the University on this important occasion.

HONORING FRANK AND GRACE BARR

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. ROUKEMA. Mr. Speaker, I rise today to recognize and congratulate Frank and Grace Barr for their contributions to historic preservation and community service in northern New Jersey. This weekend, Frank and Grace Barr will be the recipients of the Hermitage Volunteer Appreciation Award of 2001. Their leadership in the development of the Hermitage is a remarkable achievement and I commend them for their efforts. The results of their dedication are felt not only at the Hermitage, but throughout our community. As community leaders for over thirty years, they are outstanding examples of the type of people who make Bergen County such a wonderful place.

We take tremendous pride in the Hermitage in Ho-Ho-Kus, New Jersey. Built in 1740, the Hermitage was the home of Theodosia Prevost, who invited George Washington and his officers to stay at the estate after the Battle of Monmouth in July of 1778. One of Washington's officers, Aaron Burr, became a frequent visitor afterward and eventually proposed marriage to Theodosia. Attendees of the couple's wedding at the Hermitage included James Monroe, Alexander Hamilton, and the Marquis de Lafayette.

After its noteworthy beginnings, the Hermitage was donated to the State of New Jersey and has been restored as a museum and National Historic Site through the work of the Friends of the Hermitage. It is through the continued dedication of people such as Frank and Grace Barr that we can continue to enjoy this treasure. Frank and Grace have been active supporters of the Friends of the Hermitage since 1976 and continue to pledge their time and effort to this landmark. It is an honor to recognize such a dedicated couple.

Grace Barr served on the Board of Trustees for six years and is now a member of the Hermitage development committee. An active and

effective fund-raiser, Grace also co-chaired the Colonial Ball and the Friends of the Hermitage Cookbook, first printed in 1976. In addition to her work at the Hermitage, Grace has been an active member of the Ho-Ho-Kus Public School System for over twenty-six years.

Frank Barr has been both a Trustee of the Valley Health System and Chairman of Valley Hospital in Ridgewood, New Jersey. Valley Hospital has become a Hermitage Pioneer Corporation through its evolution into a major healthcare system. As a former Ho-Ho-Kus School Board President and trustee on various boards in the local community, Frank has played an integral role in the community. He has served as President of Fishers Island Development Corporation and was a Trustee of St. Lawrence University. He has also founded a non-profit affordable housing corporation in addition to his many other career achievements. These are truly phenomenal people.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in congratulating Grace and Frank Barr for all they have done for their community and for the outstanding example they set for all of us.

HONORING GILSON D. FOSTER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BARCIA. Mr. Speaker, I rise today to honor Gilson D. Foster as he concludes his lengthy and meritorious tenure as Business Manager and Financial Secretary of the International Brotherhood of Electrical Workers Local 557 and as President of the Saginaw County Labor Council. Gil has truly earned his reputation as an outstanding leader who has played a key role in shaping the future of the greater Saginaw community.

A native of Alma, Michigan, Gil has positively affected the lives of nearly everyone who has had the pleasure of meeting him, and those of countless people who will never know how much better their lives are thanks to his hard work. Throughout his life, he has exhibited exemplary citizenship by consistently and eagerly going well above and beyond the call of duty. He has truly made a difference in the lives of working families.

Devotion to duty, longevity in service and job excellence are hallmarks of Gil's work ethic. After graduating in 1952 from the former Arthur Hill Trade School, Gil enlisted in the United States Marine Corps, serving honorably until his discharge in 1960. He later graduated from the Saginaw Joint Electrical Apprenticeship program and embarked on his career in the electrical trade. In 1966, Gil took over as Local 557 Business Manager and Financial Secretary and served in those roles for 35 years. Similarly, he spent 20 years as President of the Saginaw County Labor Council and also served on the Michigan state AFL–CIO General Board.

Gil's contributions, however, extend far beyond the workplace. Over the years, Gil has freely and exuberantly given his time and resources to many community organizations, including the Salvation Army, the United Way of Saginaw County, the Lake Huron Area Council Boy Scouts of America Executive Board, the Saginaw Community Foundation, the Delta College Quality of Life Advisory Council, the Saginaw Economic Development Corporation, the Saginaw County Chamber of Commerce and the Great American Music Festival Board of Trustees.

Of course, such community service is never accomplished without the love and support of family. Gil's wife, Patricia, and five children, Kathy, Nancee, Keith, Randall, and Anne, have been an integral and key part of his success.

Mr. Speaker, I ask my colleagues to join me in congratulating Gil Foster on his first-rate and admirable community involvement and for his efforts in making Saginaw an enviable place to call home. I am confident that he will continue to provide many more years of dedicated service to his fellow citizens.

CONDEMNING TALIBAN REGIME OF AFGHANISTAN REQUIRING HINDUS TO WEAR SYMBOLS IDENTIFYING THEM AS HINDU

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 13, 2001

Mrs. MALONEY of New York. Mr. Speaker, I rise today in strong support of this Resolution which condemns the treatment of Hindus by the Taliban government.

The Taliban government has once again crossed the line, this time by forcing Hindus to wear identifying markers on their clothing. This latest oppressive act is eerily reminiscent of Nazi-era Germany when Jews were forced to wear the yellow Star of David in order to identify themselves. Singling out one group serves only one purpose: fostering discrimination and potential persecution. The world stood silently by when the Nazis started targeting Jews. We will not be silent this time. We must remember the cautious maxim that reminds us that those who do not learn from the past are condemned to repeat it.

The Taliban are slowly attacking all groups who they perceive as different. Since 1996, the Taliban, an extremist militia, has seized control of 90% of Afghanistan and then unilaterally declared an end to women's basic human rights.

Women are banished from working. Girls are not allowed to attend school beyond the eighth grade. Women are being beaten for not fully covering themselves, including their eyes and ankles.

Women and girls are not allowed to go out into public without being covered from head to toe with a heavy and cumbersome garment and escorted by a close male relative.

Women are not allowed to seek health care, even in emergency situations, from male doctors.

The Taliban has allowed some women to practice medicine, but women must do so fully covered and in sectioned off, special wards. And even these services are only available in very few select locations, leaving women to die from otherwise treatable diseases.

A sixteen-year-old girl was stoned to death because she went out in public with a man who was not her family member.

A woman who was teaching girls in her home, was also stoned to death in front of her husband, her children and her students. An elderly woman was beaten, breaking her leg, because she exposed her ankle in public.

These atrocities are real.

They are happening now, and will continue tomorrow as long as the extremist Taliban government is still in control of Afghanistan.

The restrictions on women's freedom in Afghanistan are unfathomable to most Americans.

Women and girls cannot venture outside without a burqa—an expensive and restrictive garment that covers their entire bodies including a mesh panel covering their eyes.

For some women, not having the means to afford and purchase this expensive garment will banish them to their homes for the rest of their lives.

The effects of this decree have been severe.

Many Afghan women are widows and have no means to income because they cannot work, and unless they have a close male family member, they have no access to society for food for their families and themselves.

We must continue to speak out against the Taliban, on behalf of the women and girls that risk death for speaking out for themselves.

We must not accept the Taliban as a legitimate government.

We must send a strong and clear message that gender apartheid and religious discrimination is unacceptable and a gross violation of the most basic human rights.

Afghanistan may be physically located on the other side of the world, but the voices of the women and girls suffering there are heard loud and clear here.

INTRODUCTION OF THE RENEWABLE ENERGY ACT FOR CREDIT ON TAXES

HON. SUSAN DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. DAVIS of California. Mr. Speaker, I would invite you to join me as a co-sponsor of the Renewable Energy Act for Credit on Taxes.

This is a refundable tax credit to be given for investments in renewable energy systems based on solar, wind, or fuel cells providing up to $4.50 per Watt of electricity produced, capped at the lesser of 35 percent of the cost of the system or $6,000 for residences and $50,000 for commercial enterprises. It would sunset in four years.

A recent ABC poll showed that 90 percent of the public support increased investment in renewable energy sources. In its National Energy Policy, the administration has also identified this need.

Based on the California experience, we need to supply more energy at peak periods as soon as possible. Because of transmission gridlock both between states in the western region and within California, right now we need to increase supplies where they will be used. Public policy calls for increasing reliance on renewable energy sources.

Therefore, we need to give incentives to power sources that can be put into operation relatively quickly, produce power at peak times where it will be used, and be powered by renewable energy sources.

The administration's National Energy Policy states, ''Photovoltaic solar distributed energy is a particularly valuable energy generation source during times of peak use of power.'' [p. 6–10]

Under-used locations for increased production of power are homes and businesses. Owners have not invested in personal energy systems in part because they have not provided a reasonable return on the investment. This gap can be bridged by using tax incentives to motivate additional private investment in power. The benefit is a long-term contribution to power supply that does not require continued cost for fuel.

Solar power for water heating has been used extensively in the West over many years because it has been a good investment. It demonstrates the willingness of owners to make this investment when it is financially viable.

Newer materials and more reliable systems have become available to make individual photovoltaic systems attractive as well. In April a solar demonstration home was built on the Washington Mall that not only incorporated many energy saving designs but also employed a solar energy system with back-up batteries. The additional cost for the solar system for this large, three-bedroom, two story home was given as $30,000.

Is a federal tax credit enough to encourage a homeowner to make this investment? Under my bill the owner would qualify for $18,000 of the cost based on the amount of power produced; however, the proposed cap would be the lesser of 35 percent of the cost or $6,000, leaving $24,000 of uncovered cost.

While this might not be a sufficient incentive for many owners, some 14 states as well as about 26 municipalities have additional rebates. California, for example, has a rebate program capped at 50 percent of the cost. In this case, the California homeowner combining the two programs would be paying only $9,000 of that cost.

Without a rebate, a homeowner could buy a system of half the capacity receiving a lower rebate but still have a $9,750 net cost under this bill.

The advantage of a solar solution is that in many locations the solar energy is most available when it is most needed—in the summer in the middle of the day.

In other areas wind systems are viable with applications that look like a typical roof top vent suitable for residences and businesses. While there is a current production tax credit for wind energy, it is not an attractive financial incentive for individuals since the owner is using the product not selling it. Thus, a tax credit is the appropriate mechanism.

I have chosen a refundable tax credit rather than a grant program as less bureaucratic and readily accessible to a taxpayer. The sunset will give incentives to immediately increase supplies.

I believe it is time to take a large stride toward investing in renewable energy that will continue to produce power for many years without needing to purchase fossil fuels. We can have more clean power where we need it at peak periods.

CONGRATULATING ELMER BECKENDORF

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor a dear friend and outstanding Texan, Mr. Elmer Beckendorf. This Saturday, June 16, 2001, Elmer a member of the North Harris Montgomery Community College District Board of Trustees will receive the Association of Community College Trustee's Regional Trustee Leadership Award. His commitment to public service and above all his dedication and support for education earned him this rightly deserved honor.

Born December 14, 1921 in Harris County, Texas, Elmer is a fifth generation resident of Harris County, Texas. He graduated from Addicks High School and attended the University of Houston. During World War II, Elmer served in United States Army Signal Corp attached to the Air Force installing and maintaining radio equipment providing communications for an Air Force Fighter Wing in the Pacific area of operations, Okinawa and surrounding areas. After the war, he returned to Texas where he married Dorothy Heldberg. They have three children, six grandchildren and two great grandchildren. In 1954 Mr. Beckendorf formed E.L. Beckendorf and Sons, Inc., an independent dairy farm.

Elmer Beckendorf has been a true leader in his community, having served on public boards for 47 years. He has served on the North Harris Montgomery Community College District (NHMCCD) Board of Trustees for sixteen years including two two-year terms as chair and two two-year terms as vice chair. During his service, the college district has grown from two campuses serving four school districts to four, soon to be five, comprehensive campuses and six educational centers serving nine school districts in a 1400 square mile area with a population of over 1 million citizens.

He was elected to and has served on the Tomball Independent School District Board of Trustees for 22 years, holding various offices including president during his years of service. In January of 1980 the school district dedicated the E.L. Beckendorf Intermediate School in his honor.

Civic organizations on which he has served include the Tomball Regional Hospital Authority Board of Directors, member since 1975, chairman since 1982; the Cypress Creek Branch of Greater Houston YMCA, board member 1975–1986 receiving the Volunteer of the Year in 1979; the Rotary Club of Tomball, member 1955 to present; the Greater Tomball Chamber of Commerce member since 1975 receiving the Citizen of Year in 1979; the Texas Forage and Grassland Council, Charter member, 1979 to present and President from 1981–1984; the Houston Milk Producers Federal Credit Union as an Officer of the board for 29 years; the Association of Community College Trustees as a Lifetime member; the Dairy Shrine Club as a Lifetime member and the Tomball Future Farmers of America as an Honorary Chapter Farmer.

Additionally, Elmer Beckendorf has been a champion of education supporting and leading initiatives in the area of economic development, workforce development and K–16 partnerships. With his support, NHMCCD has established Center for Business and Economic Development (CBED), a center focused on economic development initiatives and workforce development needs of our region. His support for K–16 partnerships, initiatives and agreements has led to the seamless flow of curriculum, program and services from public school through community colleges and universities.

The Association of Community College Trustees could not have picked a more outstanding person for this award. Elmer Beckendorf is a very special person and one who exemplifies the true public citizen willing to give tirelessly of himself in order that others may benefit. On behalf of the U.S. House of Representatives and the citizens of the 8th Congressional District of Texas, I offer our warmest congratulations.

A NEW DIRECTION AT ST. LOUIS HOUSING AUTHORITY

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to share some very happy news about the St. Louis Housing Authority. Just two short years ago, the St. Louis Housing Authority had the distinction of holding the worst federal ranking—14.25 out of 100—of any big city housing authority and the Department of Housing and Urban Development was threatening to take over the agency. But then, fortunately, Cheryl Lovell was named Executive Director of the agency and good things began to happen. Last month, the St. Louis Housing Authority achieved a federal ranking of 70.3 and by all accounts things are improving for the residents of St. Louis public housing.

I commend Cheryl Lovell for her dedication and achievement and would like to share the following article ''City Housing Raises Its Grades'' which appeared in the St. Louis Post Dispatch on June 13, 2001.

[From the St. Charles County Post, June 14, 2001]

AFFORDABLE HOUSING OPTIONS WILL BE STUDIED

(By Ralph Dummit)

A consultant has been selected to conduct a study in St. Charles County on the availability of affordable housing. The consultant is Paul Dribin, who served for several years as an official in the St. Louis office of the U.S. Department of Housing and Urban Development.

Dribin Consulting was picked by St. Charles County Executive Joe Ortwerth from among five or six applicants for the $45,000 contract.

Social service workers across the county have sought answers to the question of available housing for low-income residents for many years. They have contended that not only is it difficult for poor families to rent houses but that affordable houses for sale to the poor are in limited supply. They are concerned that development is geared more to large houses on large lots than to building houses or apartments in a more modest price range.

Dribin is no stranger to housing matters in St. Charles County. The Farms apartment

complex off Kisker Road had been a property insured and subsidized by HUD when neighbors began to complain about its poorly maintained and rundown condition.

As a HUD official in St. Louis at that time, Dribin sought to solve the problem at The Farms. He was able to acquire $8 million from HUD to repair the project and got a voluntary deed from the owners in lieu of foreclosure, then conveyed the property to St. Charles County. Today, the property—now called Sterling Heights—is well maintained and provides affordable housing to dozens of families.

In previewing his job for the county, Dribin wrote that the problems of affordable housing are increasing in rapidly growing areas such as St. Charles County. Most residents are benefiting from the expanding economy, but ''the working poor are finding housing options more limited.''

Dribin may rely on Development Strategies Inc., to gather census data for his study. The county had hired Development Strategies after the Flood of 1993 to study ways to provide replacement housing for the hundreds of people left homeless by the flood.

Dribin said that after the census figures are analyzed, he will prepare a comprehensive report ''detailing the housing conditions and the overall need for affordable housing'' in the county.

Further, based on the identified needs of the community, Dribin will present to the County Council ''a detailed proposal outlining alternative strategies for implementing an affordable housing policy.''

The consultant added, ''Forming a housing authority is only one option in a range of public and private sector alternatives to address (the county's) housing needs.''

Dribin expects to have an initial report completed by mid-August and to issue a completed report by the end of September.

Recently, business leaders have joined in voicing concern about providing more affordable housing for their employees.

Gregory D. Prestemon, president of the county's Economic Development Center, said late last year that he had heard from almost all of the county's larger employers ''that they see a need for housing to fit the needs of people of all income levels.''

Ortwerth has told the County Council that although state law authorizes a county housing authority—such as the one in the city of St. Charles—to construct, acquire, lease or operate housing complexes, that is not his goal.

Ortwerth said a county housing authority should concentrate on working with the private sector to promote the construction of affordable housing. He contends that such housing can be built so that it will maintain its value and does not depreciate the value of other residential properties in a community.

One purpose of studying the county's housing needs is to qualify under state statutes to form a county housing authority. Earlier, Ortwerth had hoped such an authority might be able to take over the voucher program administered by the North East Community Action Corp., also known as NECAC.

In a related move, Ortwerth last year filed suit seeking a declaratory judgment on whether NECAC or the county should be eligible to administer Section 8 housing assistance to low-income individuals and families.

No judgment on the suit has been rendered.

Meantime, NECAC traditionally has administered the Section 8 program in the county—at least 575 vouchers at present—excluding the city of St. Charles. The vouchers are the equivalent of holding cash as low-income people search for suitable and affordable housing in the county. But even among the holders of the vouchers, many give up when they are unable to find places to rent.

TRIBUTE TO SARA FORDE AND ANGELA RETEGUIZ

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ISRAEL. Mr. Speaker, it is with great pride that I rise today to recognize two of New York's outstanding young students, Sara Forde and Angela Reteguiz, on the occasion of their Gold Award Ceremony. On July 19, 2001, the women of Service Unit 35 will recognize Sara and Angela.

Since the beginning of this century, the Girls Scouts of America have provided thousands of youngsters each year the opportunity to make friends, explore new ideas, and develop leadership skills while learning self-reliance and teamwork.

These awards are presented only to those who posses the qualities that make our nation great: commitment to excellence, hard work, and genuine love of community service. The Gold Awards represent the highest awards attainable by junior and high school Girl Scouts.

I ask my colleagues to join me in congratulating the recipients of these awards, as their activities are indeed worthy of praise. Their leadership benefits our community and they serve as role models for their peers.

Also, we must not forget the unsung heroes, who continue to devote a large part of their lives to make all this possible. Therefore, I salute the families, scout leaders, and countless others who have given generously of their time and energy in support of scouting.

It is with great pride that I recognize the achievements of Sara and Angela, and bring the attention of congress to these successful young women on their day of recognition.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE JOHN JOSEPH MOAKLEY, A REPRESENTATIVE FROM THE COMMONWEALTH OF MASSACHUSETTS

SPEECH OF

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 2001

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in honor of JOHN JOSEPH MOAKLEY, former Congressman from the ninth Congressional district of Massachusetts.

JOE MOAKLEY was first sworn in as a representative in 1989. We know him most recently for his long service on the Committee on Rules—he was chairman of that committee from 1989 to 1994, and continued to serve as the ranking member from 1995 until this year.

As my colleagues have noted before me, JOE MOAKLEY never forgot his roots. Even as Chairman of one of the most influential committees in the U.S. Congress, he always had time for constituents in need, and junior Members of Congress who didn't understand the intricacies of House operations. He was known for his ability to diffuse tense situations with a humorous comment, and was welcomed and appreciated by all for his direct yet respectful manner. As my colleagues from the other side of the aisle have noted, we all thought of him as a fair chairman and an honest human being.

I began my elected service in the House of Representatives in 1989, and it was in that year that six Jesuit priests, their housekeeper and her daughter were murdered in El Salvador. Congressman MOAKLEY was appointed as the head of a special task force directed to investigate the murders and the response of the Salvadoran government. It was this task force which first reported the connection between these murders and several high-raking military officers in El Salvador. This report was of sufficient gravity that it resulted in the termination of U.S. military aid to El Salvador. The end of the civil war in that country is often attributed to his work in this area and the change in U.S. policy which resulted therefrom. JOE MOAKLEY did not have to take on any of this extra work. It didn't help him get elected, he didn't get paid any more money—he did it, I believe, because he felt a need to right a wrong, and this is how I will always remember him.

We here in Washington are all missing him very much right now. I know his surviving family and other relatives will miss him even more. To them I say JOE MOAKLEY was as good as they come. He was a true public servant in every positive sense and I stand today to honor this gentleman of all time.

TRIBUTE TO GILDA'S CLUB

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to Gilda's Club of New York City on the occasion of its sixth anniversary. Since opening its doors in 1995, Gilda's Club has welcomed over 2,600 people—men, women and children—all of whom have been affected by cancer. The Club was founded in honor and named after the late Gilda Radner. While best known for her work as a comedienne, Radner's legacy continues in Gilda's Club as it carries out her dying wish: that persons, like herself, living with cancer would find a community in which to meet, support, and share with those also struggling with this deadly disease.

Gilda's Club is a non-profit organization that provides free-of-charge services to anyone living with cancer, from those struggling with their own illnesses to their families and friends. Most noteworthy of these services is the Club's innovative and effective Basic III 'Plus' program. The program focuses on providing members with an emotional and social foundation from which to draw hope and strength. From encouragement in Support and Networking Groups, to education in Lectures and Workshops, to family bonds in Noogieland, The Family Focus and Team Convene, the Basic III 'Plus' program covers all the bases in creating the network patients need to heal both emotionally and physically.

This network is made possible by the volunteers and members of Gilda's Club, who strive to create a welcoming atmosphere for newcomers. These members and volunteers form lasting bonds while participating in Club programs. It is this unique bond that allows members to feel comfortable turning to the Club in

their times of need. Executive Director Joel Sesser most accurately describes the Club as ''a special community at the crossroads of the world.'' Everyone, regardless of their sex, religion, or ethnic background, is guaranteed loving care and support at Gilda's Club.

For the hope and spirit it has provided to its members and the inspiration it provides to the community, I offer my sincere congratulations to Gilda's Club of New York City for its six years of exceptional service.

THE EMERGENCY FOOD ASSISTANCE ENHANCEMENT ACT OF 2001

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce the Emergency Food Assistance Enhancement Act. My bill increases commodity purchases for The Emergency Food Assistance Program (TEFAP) to help emergency feeding organizations—food banks, food pantries, soup kitchens—meet the needs of their communities. It also provides more federal support for the cost of storing, transporting, and distributing food donated to these organizations by the federal government and private sources. A total of up to $40 million a year of money that is not being used for employment and training programs is earmarked for these food purchases and handling costs, in addition to the $100 million a year now set aside for TEFAP food purchases and $45 million a year appropriated for storage, transportation, and distribution costs.

Food banks and other organizations meet the needs of their communities by managing donations from the government and private sectors, and most government donations are from TEFAP. It is a unique program that has the ability to provide nutritious domestic food products to needy Americans, while at the same time providing direct support to the agriculture community. Although federal food donations through the TEFAP are not the only source of the food distributed by food banks and others, they are key because they provide distributing agencies with some certainty as to their inventory and contribute greatly to the variety of food items that are offered. TEFAP grants for storage, transportation, and distribution costs also enable these agencies to efficently handle a large volume of federal and private donations. In the 1996 welfare reform act, Congress made TEFAP commodity purchases mandatory because of the integral role it has in providing food aid to needy families and individuals.

TEFAP benefits are a quick fix, something to get families through tough times. TEFAP gives them the support they need, but it doesn't catch them in a cycle of dependency. These food purchases also provide much needed support to the agriculture community. While other food assistance programs are much larger, TEFAP purchases have a much more direct impact on agriculture producers.

The 1997 Balanced Budget Act included hundreds of millions of dollars for employment and training programs aimed at able-bodied adults between the ages of 18 and 50 without dependents whose eligibility for food stamps was restricted by a work requirement set up in the 1996 welfare reform law. The bulk of the money is dedicated to employment/training programs that keep unemployed able-bodied adults on the food stamp rolls, if they participate. But much of it is going unspent. Several hearings and reports have said that this money is unspent because few are taking advantage of employment and training assistance offered through the Food Stamp program; states running the program are not seeing a demand and are not drawing on this funding. The unused pool of employment and training money now tops $200 million, and continues to grow. At the same time, food banks and other emergency food providers report increased demand from this group and others.

Why not put the money where the need is? The Secretary of Agriculture continually reviews states' spending of their Food Stamp program allocations for employment and training programs. If a state doesn't use the money allocated to it, the Secretary can reallocate it to another state that can use it. My bill does nothing to change or restrict this authority. It simply allows the Secretary to tap up to $40 million a year in unspent and unreallocated employment and training funds for TEFAP commodity purchases and storage, transportation, and distribution costs.

Mr. Speaker, I am hopeful that the Emergency Food Assistance Enhancement Act will enjoy resounding and rapid support from the full House of Representatives. It is important that we increase commodity purchases for this important program and help emergency food providers handle the maximum volume of food donations possible.

INTRODUCTION OF THE MENTAL HEALTH JUVENILE JUSTICE ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, it is my pleasure to announce the introduction of the Mental Health Juvenile Justice Act of 2001. I am pleased to be joined by 32 original cosponsors who share my strong desire to improve the treatment of children with mental health needs who enter the juvenile justice system.

The rate of mental disorders is significantly higher among youth in the juvenile justice system than among youth in the general population. Federal studies suggest that as many as 60% of incarcerated youth have some mental health disorder and 20% have a severe disorder. In my home state of California, a recent study by the California Youth Authority found that 35% of boys in its custody and 73% of girls need mental health or substance abuse treatment.

We also know that many youngsters in the juvenile justice system have committed minor, non-violent offenses or status offenses. While they may be better served through the mental health system, often times these youngsters are incarcerated in juvenile facilities because of a lack of access to or the availability of mental health programs in the community. These youngsters, their families, and society, could be better served if we made available appropriate local mental health, substance abuse, and educational services as an alternative to incarceration, particularly for first offenders and non-violent offenses.

Our nation's juvenile justice system cannot adequately serve the needs of children with mental health disorders. Juvenile facilities are overcrowded and lack the necessary programming required to accommodate the needs of these youthful offenders. Staff working in these facilities are not trained to work with children in need of mental health services. As a result, many children in need of mental health services are left without the rehabilitative services they require.

Mental health treatment and services have been proven more effective than incarceration in preventing troubled young people from re-offending and are less expensive than prison. In the long run, they are even more cost-effective to us as a society, because they increase the odds that a young person will become a responsible, productive, taxpaying citizen rather than a permanent ward of the state.

The bill we are introducing today, the Mental Health Juvenile Justice Act, would help create alternatives to incarceration, particularly for first time non-violent offenders, and improve conditions in youth correctional institutions by:

Providing funds to train juvenile justice personnel on the identification and need for appropriate treatment of mental disorders and substance abuse, and on the use of community-based alternatives to placement in juvenile correctional facilities.

Providing block grant funds and competitive grants to states and localities to develop local mental health diversion programs for children who come into contact with the justice system and broaden access to mental health and substance abuse treatment programs for incarcerated children with emotional disorders.

Establishing a Federal Council to report to Congress on recommendations to improve the treatment of youth with serious emotional and behavioral disorders who come into contact with the justice system.

Strengthening federal courts' ability to remedy abusive conditions in state facilities under which juvenile offenders and prisoners with mental illness are being held.

We need to reform our juvenile justice system to ensure that it preserves the basic rights and human dignity of the children and youth housed in its facilities. And, while alternatives to incarceration may not work for all youth, for those who must serve time in a juvenile correctional facility we have an obligation to ensure that they have access to appropriate medical and psychiatric treatment and qualified staff.

The Mental Health Juvenile Justice Act offers these reforms and includes the appropriate safeguards for youth who would be better served in mental health and substance abuse treatment programs. I look forward to working with my colleagues in enacting this legislation.

TESTIMONY OF ARTHUR T. KATSAROS

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Ms. HART. Mr. Speaker, today the House Science Committee, subcommittee on Energy, held a hearing on the ''President's National

Energy Policy: Hydrogen and Nuclear Energy Research and Development Legislation.'' One gentleman that was asked to testify was Arthur T. Katsaros, who spoke on behalf of Air Products and Chemicals, Inc., a Pennsylvania based company that has been researching and developing the utilization of hydrogen as a fuel source. With the recent coverage of energy and our plans for future use in the United States, I would ask that his testimony be submitted for others to view and learn more about this abundant source:

INTRODUCTION

Mr. Chairman, Ms. Woolsey, and members of the Subcommittee, thank you for the opportunity to testify this morning on a subject that may seem futuristic but is actually upon us—the utilization of hydrogen as a fuel source. No matter what one's perspective is on climate change and the role of fossil fuels in the current economy, there is a broad consensus that the United States and the world are moving toward a ''hydrogen economy'' in which fuel is abundant, efficient, renewable, and non-polluting. There is debate over how soon hydrogen will be widely available as a fuel source, but little debate over hydrogen's many virtues. I am pleased to address the viability of hydrogen as a fuel source today and in the years and decades ahead, and to address perfectly legitimate concerns about assuring its safe use. I ask that my full testimony be submitted for the record.

I am Arthur Katsaros, Group Vice President for Engineered Services and Development with Air Products and Chemicals, Inc, a Fortune 500 company based in Allentown, Pennsylvania, and with operations throughout the world. Air Products is among, the world's largest companies in the industrial gas business, and is the leading producer of third-party hydrogen worldwide. Air Products is a recent past chair of the National Hydrogen Association (NHA), whose members include industrial gas producers, automobile manufacturers, energy providers, chemical companies, universities, and research institutions. I am pleased to be appearing on behalf of both Air Products and the NHA.

SUPPORT FOR HYDROGEN FUTURE ACT

NHA members wholeheartedly support reauthorization of the Hydrogen Future Act. Indeed, given the focus on hydrogen in the National Energy Policy recently released by the White House, we hope that funding for hydrogen will be increased rather than held constant. The timing is right for the United States to be putting scarce research and development resources into hydrogen as a fuel source.

The public is clearly committed to environmental protection. Energy concerns have also come to the fore, both as a result of electricity disruptions in California and the higher fuel prices that we all are facing. Policy makers will find it impossible to discuss energy policy without having to also debate environmental impact. Embracing hydrogen certainly appears to be one answer to the tension between a clean environment and bountiful energy—it provides a method for delivering energy to stationary as well as mobile sources without pollution (its byproduct of combustion is water).

For reasons of environmental protection and sustainability, America needs to be on a path that relies increasingly less on carbon as a source of energy—we have moved over the past 150 years from coal, to oil, to natural gas, and we believe eventually our economy will be based primarily on hydrogen.

HYDROGEN IS A SAFE FUEL SOURCE

Every day, millions of pounds of hydrogen are used—and used safety—in hundreds of industries across the country and around the world (50 million pounds daily in the U.S. alone). As the world's largest third-party hydrogen generator and supplier, Air Products has been addressing hydrogen safety, storage, transportation and other infrastructure concerns for decades. We put an extremely high value on safety at Air Products. The American Chemistry Council last year gave Air Products its highest award for safety. Our experience shows that hydrogen can be handled safely when guidelines for its safe storage, handling and use are observed.

Hydrogen is a fuel, and as a fuel it has combustible properties. Hydrogen's combustion properties warrant the same caution any fuel should be given, and like all fuels there are safety measures unique to hydrogen (most people do not refill their own propane tanks, for example, yet propane is widely used at home). There is no scientific or practical barrier to the safe use of hydrogen as a fuel.

Safety technologies for hydrogen have progressed in several areas. Gas detection and measurement capability has advanced based in part on the extensive investment of the Department of Energy in the last few years. Several of these technologies are becoming available as commercial products. Hydrogen flame detection has progressed mainly from the commercialization of technology used by the National Aeronautics and Space Administration (NASA). NASA today uses infrared and ultraviolet detection systems that can detect not only invisible flames produced by burning hydrogen, but also those hidden behind a screen of smoke. In addition, a series of hydrogen sensors has proven to be capable of detecting hydrogen leaks prior to ignition.

Air Products operates hundreds of miles of hydrogen pipelines in the U.S. In California alone, we produce approximately 300 million standard-cubic-feet-per-day of hydrogen, which is transported to petroleum refiners in the state to reduce the sulfur, olefins and aromatics content in transportation fuels. Safety is the paramount concern in the operation of our hydrogen pipelines. Our pipeline integrity management program—which exceeds regulatory requirements—includes risk assessment studies that typically result in the use of multiple safety technologies on our hydrogen pipelines, including heavier pipeline wall thickness, excess flow valves and isolation valves, along with intensive testing, inspection and maintenance procedures. We have been working closely with the U.S. DOT Office of Pipeline Safety on the development of regulations increasing safety practices on hydrogen and other flammable gas pipelines. The promulgation of these regulations will be critical to the development of a safe and reliable hydrogen pipeline infrastructure in the U.S.

In addition to delivering hydrogen to customers through pipelines, Air Products also liquefies hydrogen at cryogenic temperatures (−423 °F) and transports it by truck and barge. We drive 15,000-gallon hydrogen tanker trucks millions of miles per year on U.S. highways without incident. NASA, the largest consumer of liquid hydrogen in the world. has been buying hydrogen for the space program from Air Products for over 35 years under consecutive competitive contracts, totaling over 300 million pounds of liquid hydrogen. Every Space Shuttle flight has been powered by our liquid hydrogen.

CODES AND STANDARDS TRANSLATE INTO PUBLIC TRUST

Hydrogen energy safety is based on three primary elements: regulatory requirements, capability of safety technology, and the systematic application of equipment and procedures to minimize risks. Industry currently implements many successful proprietary methodologies for safely handling large amounts of hydrogen. There are several codes and standards specifically for hydrogen fuel applications that are under development by international, U.S. and industry organizations (including ISO, DOE and NHA). There are also many efforts underway to standardize hydrogen system component manufacture for hydrogen safety in a variety of potential commercial hydrogen market applications.

Widespread hydrogen use will require that safety be intrinsic to all processes and systems. To develop a hydrogen infrastructure that has the public's confidence in its safety and convenience, an industry consensus on safety issues is required. This includes the development of compatible standards and formats (e.g., the same couplings for dispensing the same form of fuel). Product certification protocols are also required. The development of codes and standards for the safe use of hydrogen is an essential aspect of the U.S. Department of Energy Hydrogen Program.

Utilizing industry expertise and coordinating with government and other official entities, this barrier to commercialization may be overcome, allowing siting of hydrogen components and systems on a worldwide basis. Indeed, the NHA works with leading code- and standard-setting organizations around the world to develop and publish industry consensus standards that account for the outstanding safety record of hydrogen. The workshops, technical meetings, manuals, reports, and sourcebooks of the NHA characterize an industry that wants to leave no stone unturned in a commitment to safety and public trust. We will continue to work with policy makers on standards and codes that promote safety and encourage public confidence in the use of hydrogen in fuel cells and direct combustion.

COMMERCIALIZATION IS COMING, BUT IT REQUIRES GOVERNMENT SUPPORT

Our international competitors—often with major help from their governments—are pouring substantial resources into hydrogen research. We believe that hydrogen will be widely used commercially within a generation—if not in the United States, then surely in Western Europe, where a consensus exists that climate change must be addressed. The Japanese have a $2.8 billion long-term hydrogen program called World Energy Network. Major automakers around the world are planning to sell fuel cell cars within the next five years. Clearly, the race for global dominance in hydrogen fuel technology has begun.

Through our involvement in multiple demonstration projects in North America and Europe, Air Products is very much engaged in the race to commercialize hydrogen technologies. Some examples of our involvement include the design and installation of fueling systems for a hydrogen fuel cell bus demonstration program for the Chicago Transit Authority; Ford Motor Company's fuel cell automobile development facility in Dearborn, Michigan; and a fleet of fuel cell service vehicles for the Palm Springs, California's Airport. Air Products is leading the hydrogen fuel provider team for the California Fuel Cell Partnership. In the next three years, more than 70 fuel cell-powered cars and buses will be placed on the road from the Partnership's West Sacramento facility. We recently installed a gaseous hydrogen fueling station in Atlanta, Georgia for a hydrogen fuel bus project conducted by a consortium of companies led by the Southeastern Technology Center. Air Products has successfully tested the use of Hythane—a blend of hydrogen and natural gas used as an ultra-clean fuel—in projects in Denver, Colorado,

and Erie, Pennsylvania. This year we participated in the demonstration of a stationary fuel cell generator that was used to power air quality monitoring equipment used by the Texas Natural Resource Conservation Commission. And Air Products is currently leading a team that will build and operate an on-site hydrogen production facility, fuel cell power plant, and a fueling station capable of dispensing hydrogen and hydrogen-blended fuels to fleets of buses and light duty vehicles in Las Vegas, Nevada. Almost all of these projects have one thing in common: the active support and partnership of government entities.

The hydrogen industry recognizes that the markets will ultimately dictate the commercial success of hydrogen. However, we note that a White House that prides itself on its faith in the markets has, in its recent National Energy Policy, supported tax credits for fuel cell vehicles. We suggest that such credits, which would stimulate demand for hydrogen, need to be matched by credits to stimulate hydrogen supply if government is serious about supporting hydrogen utilization. For example, a tax credit for plant and equipment that generates and distributes hydrogen would help develop the infrastructure needed to supply fuel cell vehicles and stationary power generators. Without such an infrastructure, it is less likely that fuel cell manufacturers will have success in selling mass quantities of fuel cells that cannot easily be refilled.

Beyond tax credits, vibrant funding of the hydrogen program at DOE—especially research into improved hydrogen storage—will help lead the country toward widespread commercialization of hydrogen fuel. Utilization of hydrogen fuel on urban bus fleets and other government vehicles, perhaps combined with applications of fuel cell power plants at federal facilities, will demonstrate the role of hydrogen and, by increasing demand, help drive down costs.

CONCLUSION

The United States is poised to take a leadership role in the development and commercialization of the global hydrogen economy. Hydrogen's utilization promotes clean air and water, makes the United States more competitive internationally, and ultimately holds the promise of contributing to our energy self-sufficiency. But to realize these benefits, there is a legitimate role for government to play in several critical areas:

Through R&D programs and demonstration projects supported by the DOE and other government agencies, new hydrogen technologies will be tested and prepared for commercial use;

By its own use of hydrogen technologies, government will play a key role in stimulating the development of a hydrogen infrastructure;

And by driving the development of standards and regulations, government will help with the issues of storage and safe handling of hydrogen required for public confidence.

We are pleased this Committee shares the view that hydrogen plays an integral role in energy planning for the future. It is our hope that Congress will take a vital step toward this future by its prompt consideration and passage of the Hydrogen Future Act. We look forward to working with this Committee, with Congress generally, and with an Administration that has identified the need for an increased role for hydrogen to satisfy our energy needs in the near future and beyond.

THE ''CONSUMER ENERGY COMMISSION ACT OF 2001''

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. RUSH. Mr. Speaker, today, I am pleased to introduce a House companion bill to S. 900, the ''Consumer Energy Commission Act of 2001,'' which was introduced on May 16, 2001, by Senator RICHARD J. DURBIN of Illinois.

Over the past several years, the nation has been hit with one energy crisis after another. In the midst of all but one of those crises, energy consumers have heard from the ''expert'' after ''expert'' that the marketplace is to blame.

While consumers, industry representatives, and public officials may disagree over whether the crisis of the day has more to do with market forces than with gouging, but ultimately, we can all agree that this country needs a comprehensive energy policy. Clearly, the Administration should be commended for its attempt at articulating such a strategy. However, the report reflects almost exclusively, the interests and concerns of the energy industry.

Unfortunately, today's energy market is controlled by relatively few huge corporations, which do not always have the best interests of the public at heart. Many consumers are not convinced that making more resources available to these companies will magically fix the market. Moreover, consumers are not convinced that deregulation, and restructuring, without strict policing of the industry, will create enough competition to alleviate the stranglehold that those companies have over the industry, and indeed the pockets of energy consumers.

It is in response to this constant and pervasive threat of market abuse and manipulation, that I introduce the ''Consumer Energy Commission Act of 2001.'' The Act would create the Consumer Energy Commission, (CEC), which would in turn analyze the energy market from the consumer's perspective and give recommendations on how to protect the public from opportunistic, and abusive behavior in the market by energy companies. This bipartisan body would consist of 11 members from consumer groups as well, as energy experts from the industry and federal government.

While there may be disagreement over what caused, and what steps should be taken to solve our current national energy dilemma, it cannot be disputed that consumers are paying astronomical prices for energy, while large companies are yielding even more astronomical profits. With this thought in mind, I am proud to introduce the ''Consumer Energy Commission Act of 2001,'' which will stand as an important step in assisting those who have suffered most during the current series of regional and national energy crises—the hard-working consumer.

PERSONAL EXPLANATION

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ALLEN. Mr. Speaker, on June 13, 2001, I was unavoidably absent for two rollcall votes. Had I been present I would have voted ''yea'' on rollcall vote 160, the Sudan Peace Act, and ''yea'' on rollcall vote 161, a resolution relating to human rights in Afghanistan.

DESIGNATION OF BANGOR INTERNATIONAL AIRPORT AS A STATE ASCE HISTORIC LANDMARK

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. BALDACCI. Mr. Speaker, I rise today to recognize the designation of Bangor International Airport (BIA) as a State American Society of Civil Engineers (ASCE) Historic Landmark. I have been proud to support this designation which I believe is well deserved.

For nearly three-quarters of a century, BIA has served as an important transportation hub for northern and eastern Maine. A municipal airstrip began in 1927, and operations have grown ever since. Within 4 years, the original Pan American Airways was flying from BIA. Today, a new Pan Am is operating from BIA, continuing a long tradition of excellent service.

The airport has had its share of celebrity, as well. Amelia Earhart flew from BIA in 1933, and piloted the inaugural flights for the Boston-Maine Airways Service.

During World War II, the federal government took over the airport, turning BIA into Dow Air Force Base. The Base played a crucial role in US military operations until it was decommissioned in 1964, and was known as the ''Gateway to Europe.'' BIA continues to be an important part of our military's mission, serving as the home of the 101st Refueling Wing of the Air National Guard—better known as the ''Maniacs.'' Today, thanks to the efforts of the City of Bangor, the airport is a commercial success. Just this week we learned of a major expansion of service that will keep business and leisure travelers moving smoothly into and out of Maine. As a member of the House Transportation Committee's Subcommittee on Aviation and a native of Bangor, I take special interest and pride in BIA's many successes—past, present and future.

I want to congratulate everyone who played a role in securing the ASCE Historic Landmark designation for Bangor International Airport, I am pleased that this facility's long and significant history is being honored.

CHAMPION OF THE HANDICAPPED—RON FOXWORTHY

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. MILLER of Florida. Mr. Speaker, I come before you today in this great Chamber to honor a fellow American. His name is Ron Foxworthy.

He lives in Sarasota, which is in my Congressional District in the Southwest part of Florida. Ron is being honored in Sarasota by his fellow citizens, his friends, his family, and most notably by the hundreds and hundreds of

handicapped children and adults for whom Ron has been the most devoted of advocates.

Ron is a successful businessman who could easily have the delightfully carefree life of a retiree in our area. He is a Shriner. He is also a 33 degree Mason. Many years ago, Ron decided to devote his extra time and extra finances to the care and well being of handicapped children.

Ron gives the expression ''quality time'' new meaning.

Since 1964 he has made sure that handicapped children can enjoy the beautiful beaches of Sarasota.

He has organized the now international Suncoast Off-shore boat races, for which all proceeds go to the Suncoast Foundation for the Handicapped.

In his role in the business community Ron has been instrumental in bringing various groups together for the common goal of assisting the handicapped. He counsels young business entrepreneurs on the operation and management of their businesses and provides them with the skills to assist the handicapped in their communities.

He somehow managed to find the time to build the first training center in the country for Special Olympics Athletes.

It is not uncommon for Ron to transport burned and handicapped children to Shriner Childrens Hospitals in his own airplane and at his own expense. He then flies back to pick up the parents so they can be with their children at the Hospitals.

Webster's Dictionary defines Champion as ''The holder of first place in a contest; one who defends another person''. Ron Foxworthy is a true Champion of the Handicapped.

A TRIBUTE TO JULIUS L. CHAMBERS

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ETHERIDGE. Mr. Speaker, I rise today to pay tribute to Julius Levonne Chambers of Durham, North Carolina, who retired as Chancellor of North Carolina Central University on June 1st. Today we honor Mr. Chambers for his accomplishments as a civil rights lawyer and for his service to North Carolina Central University and my home state.

Julius Chambers was born in Mount Gilead, North Carolina, a small community east of Charlotte, in 1936. He learned about racial discrimination at an early age when a white man refused to pay for repairs that Chambers' father had made on the man's truck. In 1954, the year of Chamber's graduation from high school, the Supreme Court handed down its landmark ruling regarding Brown v. Board of Education. Indeed even at an early age it seemed that Julius Chambers was destined to be a key figure in the civil rights movement.

In the fall of 1954, Chambers enrolled at North Carolina Central University, which was then called North Carolina College, where in his senior year, he served as the institution's student body president. Chambers graduated from North Carolina Central in 1958, and after earning his master's in history at the University of Michigan, he came back to North Carolina to study law at the University of North Carolina at Chapel Hill. While he studied law in Chapel Hill, Chambers' path intersected with the civil rights movement once again, when he was chosen Editor-in-Chief of the University of North Carolina Law Review, thus becoming the first African American to hold this title at a historically white law school in the South. After graduating first in his class of 100 in 1962, Chambers attended Columbia University Law School. Then in 1963, Thurgood Marshall selected Chambers to be the first intern at the NAACP's Legal Defense and Education Fund.

Once he completed schooling, it did not take Julius Chambers long to make his own impact on the civil rights movement. He opened his own law practice in June of 1964, and from this one-person law office, he created the first integrated law firm in North Carolina history. Chambers, with the help of his partners and lawyers from the Legal Defense Fund, litigated many historic civil fights cases, including Swann v. Charlotte-Mecklenburg Board of Education (1971), that helped shaped our nation's civil rights law. In 1984, Chambers left the firm to become the Director of the Legal Defense Fund. He would serve in this position for nine years, until he was inaugurated as Chancellor at his alma mater, North Carolina Central University.

Upon his arrival at Central in 1993, Chancellor Chambers faced a daunting challenge. Over the next eight years, Chambers used his many contacts and his reputation as a civil rights lawyer to replenish the University's coffers and improve its infrastructure. But more importantly, he revitalized the University's strong and proud spirit by virtue of his excellent leadership. He had a vision for North Carolina Central University to make the school the best liberal arts institution in the nation. And even in his last days as Chancellor he was still talking about providing better resources for students, hiring qualified and committed faculty, and improving academic achievement. He was a truly great Chancellor and he helped to shape the lives of so many of North Carolina's young African American leaders.

While recruiting Chambers for the Chancellor's position at Central, Mr. C.D. Spangler, the former president of the University of North Carolina system, told Chambers: ''If you were chancellor at North Carolina Central University, 5,000 students will walk with their heads held higher because you're there.''

Mr. Speaker, everyone involved with the North Carolina Central family and every citizen in North Carolina can hold their heads high today as we honor Julius Chambers for his career and his remarkable accomplishments.

My wife Faye joins me in wishing Julius Chambers and his wife Vivian all the best in the future. And on behalf of a grateful state, thank you Julius Chambers for a job well done.

CELEBRATING NATIONAL FLAG DAY

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. McCARTHY of New York. Mr. Speaker, I rise today in honor of Old Glory. National Flag Day is a day especially revered by veterans and one which deserves the special attention of each of us.

The Flag of the United States of America has been a constant throughout our nation's history; through its high and low points. In its long and distinguished history, our flag has taken various versions. Just as our country has grown from the original 13 colonies to the great country it is today, so too has our flag. At the time of the original 13 colonies and the Continental Congress, it was a flag of red and blue stripes, with 13 stars, representing the union of those colonies, set in a blue field, representing a new constellation. From the Star Spangled Banner, to the Flag of 1818 with its 20 stars, to today's flag, with its 50 stars, Old Glory has been a symbol of liberty and freedom for people around the world.

I am always touched by the efforts of people across the country to preserve, protect, and honor America's flag. One example that stands out, is the effort of four veterans in my district, who I have recognized as June Citizens of the Month, for their flag education program, which has taken to almost thirty different schools to talk to more than 12,000 students. Another, was the placement of a flag receptacle by a VFW Post in Levittown, Long Island, in which old and worn flags can be placed so that they can be disposed of by the U.S. Post in a manner that is befitting their importance.

As demonstrated by these men and the community in Levittown, the American flag is more than a piece of cloth—it is a national symbol. For this reason, I believe our flag is worth a constitutional sanctuary. Therefore, as we celebrate National Flag Day, let me remind my colleagues of the need to pass legislation that prohibits the desecration of the flag. It is time to give our flag the honor and respect it deserves as our most sacred national symbol.

INTRODUCTION OF THE DISTRICT OF COLUMBIA POLICE COORDINATION AMENDMENT ACT OF 2001

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Ms. NORTON. Mr. Speaker, today, I introduce a bill to amend P.L. 105–33, legislation that has done much to cure uncoordinated efforts of federal and local law enforcement officials in the nation's capital. The District of Columbia Police Coordination Amendment Act of 2001 amends the Police Coordination Act I introduced in 1997, and that was signed that year, by allowing those agencies not named in the original legislation to assist the Metropolitan Police Department (MPD) with local law enforcement in the District. Inadvertently, P.L. 105–33 failed to make the language sufficiently open-ended to include agencies not mentioned in the original bill.

Prior to the Police Coordination Act, federal agencies often were confined to agency premises and were unable to enforce local laws on or near their premises. Instead, for example, federal officers sometimes called 911, taking hard-pressed D.C. police officers from urgent work in neighborhoods experiencing serious crime. Federal officers were trained and willing

to do the job, but lacked the authority to do so before the passage of the Police Coordination Act.

Agencies have already signed agreements with the U.S. Attorney for the District of Columbia enabling them to participate. Federal agencies understand that the extension of their jurisdiction will enhance safety and security within and around their agencies while offering needed assistance as well to District residents. The Capitol Police and Amtrak Police, who have the longest experience with expanded jurisdiction, report that the morale of their officers was affected positively because of the satisfaction that comes from being integrated into efforts to reduce and prevent crime in and around their agencies and in the nation's capital. This non controversial technical amendment to the Police Coordination Act is another step to achieving my goal of assuring the most efficient use of all the available police resources to protect federal agency staff, visitors and D.C. residents.

INTRODUCTION OF THE ALL-PAYER GRADUATE MEDICAL EDUCATION ACT OF 2001

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CARDIN. Mr. Speaker, I rise today to introduce legislation that is vital to the future of our nation's health care system. America's academic medical centers and their affiliated hospitals are essential to the nation's health. These centers do much more than train each new generation of health professionals. Every American benefits from advances in medical research and well-trained providers. Medical advances have dramatically improved the quality of life for millions of Americans, and our academic medical centers are at the heart of the new era of biotechnology, which holds the promise of effective treatments for so many diseases.

Although academic medical centers constitute only two percent of our nation's non-federal community hospital beds, they conduct 42% of all health research and development in the United States, they contain 33% of all trauma units and 31% of all AIDS units, and they treat a disproportionate share of the country's indigent patients. However, funding for these critical tasks is at risk in the new competitive health care marketplace. Commercial insurers are displaying increasing reluctance to pay academic medical centers adequately to support their educational and research missions, and managed care companies steer patients away from these centers as well. Generally, managed care companies cut costs by seeking the lowest cost hospitals and physicians. An academic medical center cannot compete if forced to cover part of its teaching costs through the rates that it charges for medical services. Without a separate funding source for academic costs, these centers run the risk of being non-competitive for managed care contracts through no fault of their own.

Two years ago, The National Bipartisan Commission on the Future of Medicare studied graduate medical education funding and proposed eliminating Medicare's funding role and moving GME into the general appropriations process. It was an approach that would have seriously undermined not only academic medical centers, but also the future of the medical profession. Fortunately, this recommendation was not enacted.

There is a better way, a much fairer way, to provide for graduate medical education, while ensuring the health of the Medicare Trust Fund. To ensure stability of funding for GME in the increasingly turbulent health economic climate, continued predictable support from Medicare is essential. But even Medicare's contribution does not fully cover the costs of residents' salaries, and more importantly, our current funding system fails to recognize that a well-trained physician workforce benefits all segments of society, not just Medicare beneficiaries.

Today, I am introducing the All-Payer Graduate Medical Education Act of 2001 to create a fair and rational system for the support of graduate medical education—fair in the distribution of costs to all payers of medical care, and fair in the allocation of payments to hospitals. This bill establishes a Trust funded by a 1% fee on all private health insurance premiums. Teaching hospitals will see their direct and indirect GME payments increase by $2.2 billion each year. In addition, because the current formula for direct GME is based on cost reports generated nearly twenty years ago, it unfairly rewards some hospitals and penalizes others. This bill replaces that outdated formula with an equitable, national system for direct GME payments based on actual resident wages.

Many critics of federal GME support fail to recognize its vast societal benefits. They have attacked indirect GME payments, complaining that hospitals are not required to account for their use of these funds. The All-Payer Graduate Medical Education Act provides a structured mechanism for hospitals to inform Congress and the public about their contributions to improved patient care, education, clinical research, and community services.

My bill also addresses the supply of physicians in the United States. Nearly every commission studying the physician workforce has recommenced reducing the number of first-year residencies to 110% of American medical school graduates, down from the current level of 138%. This bill directs the Secretary of HHS, working with the medical community, to develop and implement a plan to accomplish this goal within five years.

This legislation will also ensure that hospitals are compensated fairly for the indigent patients they treat. Medicare disproportionate share (DSH) payments are particularly important to our safety-net hospitals. Many of these are in dire financial straits. This bill reallocates DSH payments, at no cost to the federal budget, to hospitals that carry the greatest burden of poor patients. Hospitals that treat Medicaid-eligible and indigent patients will be able to count these patients in applying for disproportionate share payments. This provision builds on changes made in last year's Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) to provide DSH payments equitably, regardless of the facility's location.

Finally, because graduate medical education encompasses the training of other health professionals, my bill directs $300 million of the Medicare savings toward graduate training programs for nurses and other allied health professionals each year. These funds are in addition to the current support Medicare provides for the nation's diploma nursing schools.

Numerous provider and patient groups have registered their support for the all-payer concept, including the Association of American Medical Colleges, the National Association of Children's Hospitals, the American Medical Student Association, the American Osteopathic Association, the American Association of Colleges of Osteopathic Medicine, the American Speech Language Hearing Association, the American Association of Colleges of Nursing, and the American Hospital Association.

I urge my colleagues to join me in protecting America's academic medical centers and the future of our physician workforce by supporting this legislation. Together, we can establish an equitable funding system for GME that ensures the continuation of the highest caliber medical workforce and patient care.

H.R. 2174: ROBERT S. WALKER AND GEORGE E. BROWN, JR., HYDROGEN FUTURE ACT OF 2001

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. CALVERT. Mr. Speaker, I rise to introduce H.R. 2174, Robert S. Walker and George E. Brown, Jr. Hydrogen Future Act of 2001, a reauthorization of the Hydrogen Future Act of 1996.

I strongly support continued hydrogen research and development. While serving as Chairman of the Subcommittee on Energy and Environment of the Committee on Science I began consideration of this reauthorization, which has come to fruition today.

The President's National Energy Policy calls for a balanced energy supply portfolio—I completely support the President's recommendations. America's unprecedented economic growth and prosperity rests on an affordable supply of energy. And, we can all agree that reducing emissions and conserving resources is a good idea. For this reason, I continue to advocate the pursuit of greater efficiencies and reduced energy consumption in our industrial processes, in our transportation sector and in our communities and homes. The national energy strategy that will emerge from Congress and the Bush Administration will include all our energy options and hydrogen will have a place in that strategy. In fact, I am excited to report that the Bush Administration came out in support in my reauthorization bill today at the Science Committee's Subcommittee on Energy hearing today on ''Hydrogen and Nuclear Energy R&D Legislation.''

Mr. Speaker, I first became interested in the possibilities that hydrogen presents through my work with CD–CERT, an excellent engineering center at the University of California, Riverside—located within my 43rd Congressional district. CE–CERT is nationally renowned for initiating innovative programs to reduce energy demand and improve the environment. CE–CERT has successfully demonstrated a hydrogen vehicle, which has been well received. Additionally, Riverside County,

also within my district, participates with a number of other partners in Sunline—a highly successful public bus fleet demonstration of hydrogen technology, which includes hydrogen infrastructure. Programs such as CE–CERT and Sunline show that hydrogen vehicles are not only possible but also practical. Programs such as these are critical to sustaining my district's growth while continually improving air quality.

For this reason, last year, while Chairman of the Science Committee's Energy and Environment Subcommittee, I considered sponsoring the reauthorization of the Hydrogen Future Act of 1996. 1 am proud to be introducing this legislation today, and I understand that Senator HARKIN will also be introducing similar legislation in the Senate today.

The bill will reauthorize appropriations for hydrogen R&D at the Department of Energy totaling $400 million including an additional $150 million for demonstration projects. This is a substantial increase in authorized levels over previous years. The bill would also sunset the Hydrogen Technical Advisory Panel and directs the Secretary of Energy to enter into appropriate arrangements with the National Academy of Sciences to establish a Hydrogen Advisory Board, thus giving Hydrogen R&D the kind of high-level, Federal and nationwide visibility it deserves.

My bill is named after two former colleagues. George E. Brown, Jr., who honorably served the district adjacent to mine for many years—he was my mentor and good friend. I was proud to serve under Chairman Walker on the Science Committee and respected his leadership on this, as the author of the previous Hydrogen Future Act, and many other issues.

I am pleased to introduce this bill with 13 original cosponsors and I invite more of my colleagues to join me in support of this important, forward-looking R&D legislation.

IN RECOGNITION OF THE 25TH ANNIVERSARY LIBERTY STATE PARK

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Liberty State Park on its 25th Anniversary. I am proud and honored to represent Liberty State Park in the U.S. House of Representatives. For decades, the Park has symbolized freedom and democracy, while providing a beautiful backdrop to the Statue of Liberty and Ellis Island.

The park officially opened on Flag Day, June 14, 1976, as New Jersey's bicentennial gift to the nation. Located on the Hudson River waterfront, less than 2,000 feet from the Statue of Liberty, Liberty State Park serves as a place of public recreation for millions of tourists and nearby residents. Every year, families from all across the country travel to the park to picnic, host social gatherings, or simply take in the grand views of the Manhattan skyline and the Statue of Liberty.

For years, I have vigorously fought to protect Liberty State Park for our children and future generations. In 1994, 1 successfully fought developers'efforts to convert this cherished landmark into a golf course. In addition, I have worked with a coalition of organizations to remediate the park's interior to provide more space for visitors to enjoy.

My family and I have shared and enjoyed this park with countless other families and visitors from all across the globe. We have spent many spring and summer afternoons playing football and taking in the splendid views of the Statue of Liberty and Ellis Island. It has become a family ritual to catch a ferry ride from the park to Ellis Island or the Statue of Liberty on a nice fall day.

Liberty State Park continues to play an important role in the lives of the people and families who journey here every year. I love and appreciate this park, and will continue to protect and preserve its natural beauty. I would also like to pay tribute to the Pesin family for their commitment to preserving Liberty State Park and all its splendor.

Today, I ask my colleagues to join with me in honoring Liberty State Park on its 25th Anniversary.

HOW THE IMPERIAL IRRIGATION DISTRICT SAVED THE IMPERIAL VALLEY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. HUNTER. Mr. Speaker, June 20, 2001, marks the 100-year anniversary of water coming to the Imperial Valley. For my colleagues who are not familiar with the desert portion of my district, it lies in the southeast corner of California, along the U.S. international border with Mexico. Fertile land, and the hardworking farmers of the Imperial Valley, are responsible for many of the fruits and vegetables that our country enjoys throughout the year.

As with any desert region, having water is of paramount concerns and the creation of the Imperial Irrigation District (IID) was an instrumental part of allowing the Imperial Valley to survive. I wanted to take this time to recognize their efforts and accomplishments.

Pioneers began to settle in the Imperial Valley in the 1890s. At that time, the California Development Company (CDC) was responsible for making water available to the new settlers. Men such as Charles Rockwood, Perry Paulin, and Anthony Heber obtained the financial backing necessary to conjoin the waters of the Colorado River with the Colorado Desert. Their plan was to construct a headworks on the river just below Yuma, Arizona, that would connect to a 54–mile–long canal. Water would be delivered by force of gravity to its destination in what was variously called the ''New River Country'', or the ''Imperial Settlement'' and finally, the ''Imperial Valley.''

It was not until 1900, when George Chaffey became associated with the CDC, that work began in earnest on the canal-building project that started at Pilot Knob, extended into and out of Mexico, and eventually found its way to Cameron Lake, later to become known as Calexico, California.

Chaffey struck a deal with Rockwood and the other officers of the corporation to finish the necessary infrastructure and divert water from the Colorado River to the Imperial Valley in five years. Chaffey finished his work ahead of schedule and within two years the first water was being delivered to the fledgling community of Imperial on June 20, 1901.

With the means to deliver water from the Colorado now in place on both sides of the border, the settlers of Imperial County were ready to welcome easier times. Unfortunately, the flood years of 1905–1907 created a difficult situation when the swollen Colorado River suddenly changed course, sweeping away the original headworks at Hanlon Heading and sending its entire flow not to the Gulf of Mexico, but to the Imperial Valley. A disaster for CDC resulted.

Only the intervention of the Southern Pacific Railroad, which had its own investment to protect in the Valley's continued reclamation and settlement, staved off the inevitable collapse of the CDC, and with it the hopes and dreams of several thousand new settlers. The dilemma facing the railroad was whether or not to abandon its existing lines in the Imperial and Mexicali Valleys, which were now under water, and build new ones, or to throw its considerable resources into stopping the break, saving both valleys.

Southern Pacific Railroad executives opted for the latter choice, spending a total of $6 million over the next two years to close the break. As the company's largest stockholder, the railroad was forced to assume day-to-day management of the CDC during the midst of the flood years. To the approximately 3,000 settlers who had come to the Imperial Valley this meant that the company responsible for bringing water to their burgeoning communities and distributing it to the mutual water companies and their farms was no more.

Southern Pacific Railroad, however, was reluctant to be in the Imperial Valley irrigation and land business and made the decision to cut its losses before it acquired any new ones. A group of disgruntled local investors had the same idea and called for the dissolution of the CDC and the sale of its remaining assets.

It was against this backdrop of natural and man-made disasters that the first settlers of the Imperial Valley took a series of affirmative steps to ensure the future of their community. The first step was a vote in August, 1907, designating El Centro, with its 41 registered voters, as the county seat over Imperial, the Valley's oldest and most populous community with 500 registered voters and one-third of the total electorate. There were five towns in the Valley then: Imperial, Calexico, Brawley, Holtville and El Centro, the first three having been developed by a syndicate of Los Angeles investors and the latter two by Mr. W.F. Holt, who underwrote much of the Valley's early growth and development.

The Imperial Valley was now its own county and El Centro its geographic and governmental center. The first Board of Supervisors was elected on that same August day in 1907, as was the very first district attorney, Mr. Phil Swing, and the county's first sheriff, Mr. Mobley Meadows. Duly constituted as an official body by the state, the young county was ready to begin addressing its most pressing concern: What to do about the water situation, so closely tied to the future of the Imperial Valley?

For a time, the federal government appeared to offer a solution. Responding to pressure from the Southern California delegation, Congress appropriated $1 million in 1910 to

construct new gates and levees near the site of the former break. An unexpected surge in the river, however, washed away eight months of work and killed one of the workers.

Despite opposition from the mutual water companies, county officials began to circulate the idea of forming an irrigation district that would be owned by the people through the California Irrigation District Act. The legal analysis was furnished by Mr. Phil Swing, the newly-elected and politically astute D.A., who would later serve in Congress. He became the motivating force behind the Boulder Canyon Project.

Swing argued that private ownership had been tried and failed, the federal government could not be counted on to fill the void left by the railroad and the mutual water companies could not be trusted to represent the people's best interests. According to Swing, what the Imperial Valley needed was an irrigation system owned by the people it was meant to serve, a public agency with municipal powers similar to a city, but one that was also autonomous from county government. The call for local control had immediate appeal in an Imperial Valley still recovering from the flood years and captured the populist mood of the voters. An election was held on July 14, 1911, and the vote in favor of establishing the Imperial Irrigation District (IID) was passed 1,304–360.

Members of the IID's first board included Mr. Porter Ferguson, a Holtville farmer; Mr. Fritz Kloke, a farmer and banker in the Calexico area; Mr. W.O. Hamilton, an El Centro farmer and merchant; Mr. H.L. Peck, an Imperial farmer and merchant; and Mr. Earl Pound of Brawley, a farmer and real estate broker. At its first meeting on July 25, 1911, Porter Ferguson was named president of the board, and members were asked to contribute $150 toward the good of the cause, with the $750 going to help defray ongoing expenses.

Their cause was self-determination, which most people believed could only be realized through the eventual purchase of the water distribution system already in place, including the 52 miles of canals owned and operated by the Compania de Terrenos y Aguas de la Baja California, a Mexican subsidiary of the CDC. Both companies and their assets were tied up in the courts, but the ITD intended to acquire these properties out of receivership. In the meantime, it would have to generate the capital needed to implement its ambitious acquisition plan.

By 1912, with the Mexican Revolution going on just across the border in Mexicali, an opportunity was presented for an open discussion regarding the need for an ''All American Canal,'' the first recorded reference to the massive project that would be completed, along with Hoover Dam, some 30 years later.

At the same time, the IID was negotiating directly with the railroad and with the American and Mexican receivers in an effort to purchase the assets of the CDC, which it did in 1915 for the price of $3 million. A bond issue for $3.5 million was passed later that year and condemnation of the defunct company was initiated by the IID. Both actions were popular with the people, if not with the mutual water companies, but individual board members did not enjoy the same level of support among water users, mainly due to water shortages on the river.

Finally, the entire board of directors resigned as a body and the County Board of Supervisors had to appoint five new IID directors, naming Mr. Leroy Holt as president in 1916. It was this Holt-led board, serving during those first tumultuous years of 1912–1916, that skillfully pursued the acquisition of the CDC's existing waterworks and placed it in the hands of the people. The IID purchased the last of the ''mutuals'' in 1922. It was during this period that the East Highline was built, along with the Westside Main Canal and other important features of the canal network that are still in service today.

The IID's first four years in existence were a chronology of great accomplishments, coupled with competitive politics. Its real achievement, however, was delivering to the people of the Imperial Valley some measure of certainty in the future and, with it, a reason for optimism. With the flood years and the period of receivership behind it, the IID, on behalf of the people, picked up where the CDC left off. There was only one difference, the IID never stopped.

Thank you Imperial Irrigation District for your years of dedicated service, for saving the Imperial Valley and for all that you continue to do for the citizens of Imperial County.

TRIBUTE TO THORNTON SISTERS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. PALLONE. Mr. Speaker, I would like to call attention once again to a group of women who never cease to amaze me. This month marks the tenth anniversary of The Thornton Sisters Foundation, Inc. I have been following these women's struggles and accomplishments for a long time now, and after a decade of success I feel it an honor to formally salute these women a second time.

On Sunday June 10, 2001 the Thornton Sisters Foundation held an awards ceremony for the twenty-five finalists of the Donald and Itasker Thornton Memorial Scholarship and their family members. The Grand View Ballroom at the Jumping Brook Country Club in Neptune, New Jersey hosted this occasion.

The Thornton Sisters have an interesting history that led to the creation of this foundation. Their parents, Donald and Itasker, moved in 1948 from Harlem New York City to Long Branch, New Jersey. The Thornton move was so that their children would be able to receive a better education. After purchasing a lot on Ludlow Street, Mr. Thornton became the first African-American man in the area to receive a mortgage.

Mrs. Thornton having given birth to six children, all of whom are girls, became a domestic. Mr. Thornton worked three jobs at Fort Monmouth, Eatontown to provide for his children.

Mrs. Thornton was unable to attend college herself. However, she pushed all of her daughters to accomplish something that she would never be able to do. Mrs. Thornton was correct in her foreseeing that women of the future would need to be able to be financially stable on their own.

With the help of scholarships and a weekend family music group all six daughters graduated from Monmouth University in Long Branch. Their music ensemble was well known and packed the house of the Apollo Theatre in Harlem. Having learned early on the importance of an education, these six sisters now want to give the same opportunity they had to other young women.

This story has special significance to me, as I am a citizen of Long Branch. Rita Thornton and I both attended Long Branch high school at the same time and actually participated in speech and debate together. I could tell, even back then, that her and her sisters share a true commitment to education and excellence—now knowing all of them received straight A's throughout high school.

These women are truly a group that needs to be admired and praised. I want to personally thank the Thornton sisters on their ten years of providing scholarships for young minority women of the state of New Jersey.

NATIONAL YOUTH SMOKING REDUCTION ACT OF 2001

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. DAVIS of Virginia. Mr. Speaker, I am very pleased to introduce the National Youth Smoking Reduction Act of 2001, which gives the Food and Drug Administration (FDA) comprehensive, effective authority to oversee the tobacco industry. As the name implies, the primary focus of this bill is to keep our children away from tobacco products—to protect them from being targeted by the tobacco industry, to keep them from becoming addicted, to keep them healthier and stronger without the detrimental effects of tobacco.

I would especially like to thank my co-sponsors, Representatives TOWNS, GILLMOR, COLLIN PETERSON, LINDER, MARK GREEN, MIKE DOYLE, COLLINS, SWEENEY, BONO, GRANGER, TERRY FERGUSON, SCHROCK, and GRUCCI, for their leadership on this important issue.

Where does my interest in curbing tobacco use come from? My father died of emphysema, and my wife is a doctor. I have three children of my own, and it would break my heart to see them fall prey to the marketing tactics that ensnare children and get them started on tobacco and down the road to disease and suffering. Moreover, I can see with my own eyes the dangers presented by tobacco use, and I believe there is a need to do something about the situation.

I should note that this is not the first time I have acted against tobacco. Back in the mid-1980s, as a member of the Fairfax County Board of Supervisors, I introduced the first ordinance in the Commonwealth of Virginia to designate non-smoking areas in restaurants.

I have tried to take a sensible approach to what is clearly a sensitive and polarizing issue. Some believe FDA has no role in regulating tobacco. Many would prefer FDA to have complete authority over tobacco, up to and including banning the use of tobacco products outright. I am promoting an approach that will allow FDA to take important steps in protecting our citizens, especially children, from the dangers of tobacco. However, I stop short of an abolitionist stance, because I believe that if an adult chooses to use tobacco products, he or she should legally be able to do so. If we ban tobacco use, or leave room

for tobacco products to be altered in a way that makes them unacceptable to adult consumers, an illegal market to obtain such products will surely arise. This, ultimately, will be more harmful to the public health than if we never did anything at all. My bill leaves the authority to ban the use of tobacco products, or to eliminate nicotine completely from them, where that authority belongs: the Congress.

In addition, my bill allows for ''reduced-risk'' tobacco products. This is an area I believe could be very important in weaning existing tobacco users from more dangerous products—making it easier for them to quit, or at least giving them options that are less dangerous than the ones they are currently using.

I have sought to improve upon S. 190, which has been introduced in the other body. Like that bill, mine allows FDA to remove harmful substances from tobacco products, whether or not they are already on the market. It improves upon S. 190 by codifying the marketing and access restrictions found in the Master Settlement Agreement and the 1996 FDA regulation. These restrictions will go into effect shortly after enactment of the bill, and will subject them to federal enforcement. Furthermore, my bill directs FDA to regulate descriptors, such as ''light'' and ''ultralight'', and allows FDA to ban their use if they determine them to be misleading. I have also extended my bill to cover ''bidis'' and other tobacco products specifically directed towards children.

Mr. Speaker there are other important additions included in my bill, which are described in the attached section-by-section analysis. I urge your careful consideration of this extremely important legislation.

THE NATIONAL YOUTH SMOKING REDUCTION ACT

Section-by-Section Summary: The ''National Youth Smoking Reduction Act of 2001,'' among other things, creates a new chapter IX of the Federal Food, Drug, and Cosmetics Act (FDCA) to provide explicit authority to FDA to regulate tobacco products. The bill creates a separate chapter in the FDCA for tobacco products and thus expressly directs FDA to maintain a distinct regulatory program for tobacco products. The new FDCA chapter IX for tobacco products provides for comprehensive regulation of tobacco products.

The provisions of this new FDCA tobacco products chapter are based on the FDCA's device provisions, but some changes were made to make the provisions more appropriate for tobacco products. The most significant change is that the current statutory standard of ''reasonable assurance of safety and effectiveness,'' which is relied on when FDA makes a range of decisions for devices, was changed to ''appropriate for the protection of the public health,'' a standard which is more appropriate for tobacco products.

FDCA CHAPTER IX—TOBACCO PRODUCTS

Section 901—FDA authority over tobacco products

Clarifies that nothing in chapter IX shall be construed to affect the regulation of drugs and devices under chapter V that are not tobacco products under the FDCA.

Also clarifies that chapter IX does not apply to tobacco leaf that is not in the possession of the manufacturer, or to producers of tobacco leaf; including tobacco growers, tobacco warehouses, and tobacco grower cooperatives.

Also clarifies that FDA employees may not enter onto a farm owned by a producer of tobacco leaf without the producer's written consent.

Section 902—Adulterated tobacco products, and Section 903—Misbranding tobacco products

Defines the conditions under which a tobacco product will be adulterated or misbranded under the FDCA, and subject to enforcement action. These provisions are similar to device law provisions, but are tailored to tobacco product regulation.

Section 903(b) authorizes the Secretary to require by regulation the prior approval of statements made on the label of a tobacco product, and explicitly states that no regulation issued under this subsection may require the prior approval by the Secretary of the content of any advertisement. This is similar to a device law provision.

Section 904—Submission of health information to the secretary

Within 6 months of enactment (and annually thereafter), each tobacco product manufacturer or importer must, among other document requirements, submit to FDA:

All documents relating to research activities, research findings, conducted, supported, or possessed by the manufacturer on tobacco or tobacco-related products;

All documents relating to research concerning the use of technology to reduce health risks associated with the use of tobacco; and

All documents relating to marketing research on tobacco products.

Section 905—Annual registration

Tobacco manufacturers are required to register each year with FDA in order to provide name and place of business information, as well as to provide lists of tobacco products manufactured by the establishment, and other information. Entities registered with FDA are subject to inspection every two years.

Section 906—General provisions respecting control of tobacco products

Provides authorities relating to the general regulation of tobacco products. This section includes protections for trade secret information similar to those for devices.

Under Section 906(d), the FDA through regulation may require that a tobacco product be restricted to sale or distribution upon such conditions, including restrictions on the access to, and the advertising and promotion of the tobacco product, if the Secretary determines that such regulation would be appropriate for the prevention of, or decrease in, the use of tobacco products by children under the age at which tobacco products may be legally purchased.

FDA may not require that the sale or distribution of a tobacco product be limited to prescription use only.

FDA is precluded from prohibiting tobacco product sales in face-to-face transactions by specific categories of retail outlets (for example, a ban on sales of cigarettes by gas stations).

Under Section 906(e), the FDA is authorized to promulgate regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation, packing, storage, and installation of a tobacco product conform to good manufacturing practice (GMPs) to assure that the public health is protected.

Prior to issuing GMP regulations, FDA is to consider recommendations from an advisory committee.

The bill makes explicit that the Secretary has the authority to grant either temporary or permanent exemptions or variances from a GMP requirement.

Section 907—Performance standards

FDA may promulgate performance standards for tobacco products if FDA determines that a standard is appropriate for protection of the public health. This authority is essentially the same as that for devices.

A decision as to whether a performance standard would be appropriate for the protection of the public health is to be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product.

Performance Standards must be promulgated through rulemaking, and interested persons may request that a proposed standard be referred by FDA to an advisory committee for recommendations on scientific issues.

Congress has the sole authority to approve any standard that eliminates all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or that reduces nicotine to zero. Also, no performance standard can render a tobacco product unacceptable for adult consumption.

Section 908—Notification and recall authority

Provides authority for FDA to order public notification if it determines that a tobacco product presents an unreasonable risk of substantial harm to public health, and such notification is necessary to eliminate that unreasonable risk. In addition:

FDA may issue cease and desist orders and order recalls of particular tobacco products where the Secretary finds that a tobacco product contains a manufacturing or other defect that is not ordinarily contained in tobacco products on the market and would cause serious, adverse health consequences or death.

The section's notification and recall provisions do not relieve any individual from liability under state or federal law.

Section 909—Records and reports on tobacco products

FDA may, by regulation, require a tobacco manufacturer or importer to report any information that suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected, adverse product experience.

Section 910—Premarket review of certain tobacco products

Provides for premarket review of new tobacco products that have the potential to increase the risks to consumers from conventional tobacco products being marketed at the time of the application.

Section 911—Judicial review

This provision provides judicial review procedures beyond the Administrative Procedure Act for FDA actions involving performance standards and premarket approval applications. This provision provides the same procedures as the parallel provision in device law.

Section 912—Reduced risk tobacco products

This section ensures that only those products designated by FDA as a ''Reduced Risk Tobacco Product'' may be marketed and labeled as such.

FDA may designate a product as a ''reduced risk tobacco product'' if it finds that ''the product is demonstrated to significantly reduce of harm to individuals caused by a tobacco product and is otherwise appropriate to protect the public health.''

A product designated as a ''reduced risk tobacco product'' is required to comply with certain marketing and labeling requirements. However, the FDA shall not prohibit communication that such product is a ''reduced risk tobacco product.''

FDA may revoke such designation after providing an opportunity for an informal hearing.

A manufacturer of a tobacco product is required to provide written notice to FDA upon the development or acquisition of any technology that would reduce the risk of such products to the health of the user for which the manufacturer is not seeking designation as a ''Reduced Risk Tobacco Product'' under this section.

Section 913—Preservation of state and local authority

The section makes clear that except as expressly provided, states and localities may adopt and enforce tobacco product requirements that are in addition to, or more stringent than requirements established under FDCA chapter IX. Where a requirement of a State or locality is more stringent, the requirement of the State or locality shall apply.

No provisions of chapter IX relating to tobacco products shall be construed to modify or otherwise affect any action or the liability of any person under the product liability laws of any State.

Section 914—Equal treatment of retail outlets

Directs FDA to issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

Section 915—Access and marketing restrictions

Prescribes specific marketing and access restrictions for tobacco products. (FDA may impose additional restrictions on marketing and access pursuant to section 906(d), as described above.) The requirements provided in this section track the vast majority of the marketing and access restrictions promulgated by FDA in its 1996 final rule, which was later nullified by the Supreme Court. The requirements also incorporate, with applicability to all, the marketing restrictions imposed on some tobacco product manufacturers under their settlement with the State Attorneys General.

Establishes a federal minimum age of 18 for tobacco product sales and requires proof of age of any individual younger than 26. Authorizes FDA to contract with the states for the enforcement of minimum age laws.

Prohibits the use of vending machines and the distribution of free samples of tobacco products, except in adult-only facilities where minors are prohibited from entering.

Bans tobacco advertisements in any outdoor location, in any transit vehicle or facility, and in any youth-oriented publication. A youth-oriented publication is defined as any publication whose readers younger than 18 years of age constitute more than 15 percent of total readership or that is read by 2 million or more persons younger than 18 years of age.

Bans tobacco-brand-name sponsorships of any athletic, musical, artistic, or other social or cultural event.

Bans the use of cartoon characters in any tobacco advertisement, promotion or labeling. Also bans manufacturers from distributing branded tobacco product apparel or other merchandise.

Prohibits any action by a tobacco business that has the primary purpose of encouraging tobacco use by minors or that directly or indirectly targets youth in the advertising, promotion, or marketing of tobacco products.

Prohibits manufacturers from making any payment to any other person for the display, reference, or use as a prop of any tobacco product or tobacco product advertisement in any motion picture, television show, theatrical performance, music recording or performance, or video game.

Section 916—Mandatory disclosures

Prescribes specific disclosure requirements related to tobacco product ingredients, the use of domestic and foreign tobacco leaf, and the use of terms such as ''light'' or ''low tar.''

Directs FDA to issue regulations requiring the disclosure to consumers of tobacco product ingredients on a brand-by-brand basis following the model of ingredient disclosure used for foods, under which spices, flavorings, and colorings may be listed as such.

Directs FDA to issue regulations requiring the disclosure on each package of tobacco product of the percentage of domestic and foreign tobacco in that brand.

Requires tobacco product manufacturers to include a specific disclaimer in any advertisement which classifies a tobacco product according to its tar yield or the yield to consumers of any substance, such as by using terms like ''light'' or ''low tar.'' The disclaimer required is: ''[Brand] not shown to be less hazardous than other [type of tobacco product].'' Directs FDA to promulgate additional regulations relating to the use of such terms to ensure that they are not false or misleading.

Regulatory record

For purposes of promulgating regulations pursuant to section 906(d) on advertising and access, the materials collected by the FDA in promulgating the 1996 regulations will have the same legal status as if they had been collected pursuant to this statute.

Conforming and other amendments

These amendments to the general provisions ensure that the full range of compliance, enforcement, and other general authorities available to FDA for other products are available for tobacco products.

Prevents FDA from restricting the sale of tobacco products in face-to-face transactions to certain categories of retail outlets. Allows FDA to issue, after an administrative hearing before an Administrative Law Judge, a no tobacco sale order prohibiting the sale of tobacco products at a particular retail outlet based on repeated violations by that outlet.

Prior to using its authority to issue a no tobacco sale order, FDA must promulgate through notice-and-comment rule-making regulations that include a definition of the term ''repeated violations,'' provisions for notice to the retailer of each violation, and a provision that good faith reliance on false identification does not constitute a violation of any FDA minimum age requirement for the sale of tobacco products.

Amends the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act, to give the FDA the responsibility for ensuring that the various warning labels currently used on tobacco products continue to be used as to protect public health, within certain pack and advertisement size limits. FDA has the authority to revise the warnings.

In less than 2 years after enactment, the FDA shall promulgate rules requiring testing, reporting, and disclosure of tobacco product smoke constituents and ingredients, such as tar, nicotine, and carbon monoxide, that the FDA determines should be disclosed to the public in order to protect the public health.

''AMTRAK GOOD NEIGHBOR ACT OF 2001''

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. SIMMONS. Mr. Speaker, I rise today to introduce the ''Amtrak Good Neighbor Act of 2001.''

The purpose of this bill is to build a better relationship between Amtrak and the local municipalities along the Northeast Rail Corridor.

As recently as last week, some concerned citizens in the great city of New London, Connecticut gave a much needed paint job to a railroad bridge owned by Amtrak, covering up years of graffiti. I called this a great act, reflecting the pride that New London residents have for their city. Amtrak called this trespassing and conducted a criminal investigation.

There needs to be a better relationship between Amtrak and local municipalities. This is why I have introduced the Amtrak Good Neighbor Act of 2001. This bill directs Amtrak to work with local municipalities, whose citizens would like to provide improvements to Amtrak-owned property.

I urge my colleagues to support this important bill.

TRIBUTE TO SHERIFF ANDREW MELONI

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. REYNOLDS. Mr. Speaker, I rise today to recognize and honor the distinguished 45-year law enforcement career of an outstanding public servant and a dear friend, Andrew P. Meloni.

Since taking office as Sheriff of Monroe County, New York, on January 1, 1980, Andy Meloni made his department one of the preeminent law enforcement agencies in the entire United States. Sheriff Meloni's 20-year tenure has been marked by innovative leadership, consummate professionalism and an unquestioned commitment to public service.

A member of the Executive Board of the New York State Sheriffs' Association, the National Sheriffs' Association and as a Commissioner on the Commission for Accreditation for Law Enforcement Agencies, Sheriff Meloni was nominated by President Clinton and Former President Bush as a ''Point of Light.''

Through Sheriff Meloni's leadership, the Monroe County Sheriff's Office—the largest Sheriff's office in New York state—has received national recognition for its creative programs. A husband and father of five children, Sheriff Meloni has further given of this time, talents and energy by working with and raising funds for numerous children's programs and services, and is an active Compeer volunteer.

A veteran of the United States Army, Andrew Maloni has had a proud and distinguished career in law enforcement and public safety—beginning work in the Sheriff's department in 1954, and subsequently serving as Undersheriff, Monroe County Public Safety Administrator and Director of Public Safety for the University of Rochester.

Mr. Speaker, Andrew P. Meloni retired as Monroe County Sheriff on May 31, 2001; and I ask that this Congress join me in saluting his leadership, commitment and professionalism in protecting the lives, safety and well being of his community.

TRIBUTE TO MR. ROY ROGERS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. SHAW. Mr. Speaker, I rise today to honor Mr. Roy Rogers for his tremendous contributions to the development of South Florida and the protection of its environmental resources. A graduate of the U.S. Naval Academy in 1960, Roy Rogers served his country proudly as a navigational engineer for a nuclear submarine. Following his service, Roy Rogers began his career as a developer. He developed golf courses with legendary architect Robert Trent Jones and assisted in the planning and development of multiple communities in South Florida.

In 1985, he started to oversee Arvida's planning and development of Weston, a community in western Broward County near the Florida Everglades. It was in this development project where Roy Rogers manifested his talents not only as a developer, but also as a conservationist. Although to many these talents seem polar opposites, Roy Rogers excelled in carefully blending his skill as a developer and his care for the environment. Conservationists and developers alike, commend Roy Rogers for his masterful development of western Broward County.

After 15 years of carefully watching over the creation of Weston, Roy Rogers recently retired from his position as senior vice president of Arvida/JMB. An active member in various civic and governmental organizations, Roy Rogers will continue to benefit the people of South Florida through his many talents. It is with great honor that I commend a good friend and skillful developer for enhancing the beauty of South Florida through his many projects.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE JOHN JOSEPH MOAKLEY, A REPRESENTATIVE FROM THE COMMONWEALTH OF MASSACHUSETTS

SPEECH OF

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 6, 2001

Mr. OXLEY. Mr. Speaker, I would like to join the colleagues who have paid their appreciation to a genial giant of the House of Representatives, Congressman JOE MOAKLEY.

Last night, the Massachusetts delegation led a tribute to JOE MOAKLEY in Statutory Hall. How fitting for JOE to be honored in that hall of legends.

It's hard in an era of political cynicism to find public officials who would be described as ''beloved.'' But JOE MOAKLEY certainly was one, as evidenced by the heartfelt tributes that have come from those he worked with here in Washington and the people he represented back in Boston.

JOE MOAKLEY was principled, fair, and famously friendly. He was passionate without being unpleasant. JOE loved the institution of Congress and, in turn, became one of the select legislators who make Congress work for the American people. But despite his long years of service in the Nation's Capital and his ascension to the highest levels of power in the House, JOE MOAKLEY remained a man of Massachusetts and a person of great humor and humility. His unmistakable and delightful Boston accent told you immediately who JOE MOAKLEY was, where he came from, and who he represented.

During his distinguished career, JOE MOAKLEY stood for integrity and decency. In doggedly carrying on with his congressional duties during this illness, he achieved nobility as well. We all mourn the loss of an expert legislator and friend. But we can honor the legacy of JOE MOAKLEY by conducting our business with his sense of honor and decency. It's a way that we can give back, for all that JOE MOAKLEY gave to the House of Representatives, his constituents, and his country.

STATEMENT FOR FLAG DAY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mrs. MORELLA. Mr. Speaker, I rise today to pay tribute to our most cherished symbol of freedom, the American flag, and to recognize its importance to our national identity.

Until the 13 colonies rebelled against Great Britain in 1776, each enjoyed a separate existence from the others with few ties among them. Their common fight against British rule, however, brought them more than independence. It brought the realization of a national identity. The adoption of our national flag, on June 14, 1777, served as a symbol of this blossoming union.

John Paul Jones, the revolutionary war hero, the first to sail to sea under this new flag, stated that: ''The Flag and I are twins. . . . So long as we can float, we shall float together. If we must sink, we shall go down as one.'' Many veterans share his passion. Today we offer our profound gratitude to those who have fought and died to protect the freedoms that our flag represents.

Today is a time to reflect upon the flag and what it means to America. It is a time to recognize that we live in a great nation that, with work, can become greater still. It is a time to contemplate America's place in the world and to know that our flag stands as a beacon of liberty and justice. We know that these freedoms have not come easily and we are grateful to those who have fought for these ideals: in battle, in the courts, in Congress, and in our everyday lives, we must work to uphold the ideals for which the Stars and Stripes truly stand.

TERRIFIC TENNIS IN THE 6TH DISTRICT OF NORTH CAROLINA

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. COBLE. Mr. Speaker, on May 26, the Sixth District of North Carolina became the home of the 4–A men's state championship tennis team—Walter Hines Page High School in Greensboro. The Pirates completed their title match with a season record of 22–0—their second consecutive season with no losses.

The Cone-Kenfield Tennis Center at the University of North Carolina at Chapel Hill was the site where the Pirates defeated Fayetteville Terry Sanford High School 6–3. The single game winners included sophomore Jon Isner, freshman Robert Hogewood, and junior Adam Kerr. Both teams were undefeated up to this point and after single matches the score was 3–3. The game was still in anyone's court.

Doubles matches were going to decide who would be the team to lose. All three Page High School doubles teams won their matches, which gave the state title to the Pirates.

Congratulations are in order for Head Coach Jill Herb, Assistant Head Coach Tom Herb, along with assistant Jerry Steinhorne.

Members of the championship team included Robbie Bernstein, Steven Eagan, Pete Georges, Andrew Hjelt, Robert Hogewood, Charlie Holderness, Jon Isner, Adam Kerr, Dean Mandaleris, Jonathan Newman, Daniel Rowland, Drew Saia, Jarrett Saia, Jason Steinhorn, David Stone, Robert Sullivan, David Tursky, and Danny Redell.

Everyone at Page High School can be proud of the Pirates. On behalf of the citizens of the Sixth District, we congratulate Athletic Director Rusty Lee, Principal Dr. Terry Worrell and everyone at Page High School for winning the state 4–A Men's Tennis championship. In fact, winning two straight championships is impressive, but going undefeated for two years in a row is remarkable.

EXPRESSING CONCERN OVER THE STATE OF LABOR RIGHTS IN THE U.S.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. KUCINICH. Mr. Speaker, the right of workers to organize themselves into a union and bargain collectively are fundamental rights protected by various international conventions. Among them is the Universal Declaration of Human Rights, one of the first major achievements of the United Nations. Article 23 of the UDHR states that ''everyone has the right to form and to join trade unions for the protection of his interests.'' Another is the Right to Organize and Collective Bargaining Convention, adopted in 1949 at the 32nd assembly of the International Labor Organization and ratified by 148 countries. The very first line of this document reads: ''Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.''

United States law also codifies these basic labor rights. The National Labor Relations Act, signed in 1935, guarantees employees the right to organize and chose their bargaining representative. The Act also protects employees from retaliation by their employer for exercising their rights under the NLRA. Section 8 of the Act makes it an Unfair Labor Practice for an employer to ''interfere with, restrain, or coerce employees'' in the exercise of their rights to organize and bargain collectively. Specifically, employers are barred from discharging or otherwise discriminating against

an employee because he or she has engaged in union activity or has filed charges or given testimony under the NLRA.

Unfortunately, Mr. Speaker, there remains in this country a large gap between theory, in which these basic rights are protected, and practice, in which these rights scarcely exist. According to Human Rights Watch, ''workers' freedom of association is under sustained attack in the United States, and the government is often failing its responsibility under international human rights standards to deter such attacks and protect workers' rights.'' The evidence for this is great. Fewer than 40% of all workers who participate in an NLRB election gain coverage under a collective bargaining agreement; this number was over 75% in the early 1950s. Of the successful campaigns to form a union, only 66% result in a first contract for the newly organized workers. Unionization rates in the U.S. are at some of the lowest levels in decades.

Some will argue that this demonstrates that American workers lack interest in unions. But given unions' demonstrated ability to win Americans better wages, better benefits, and better working conditions, this explanation carries little weight. The real reasons American workers are unable to fully exercise their basic rights are three: First, certain employers will utilize any means, legal or otherwise, to prevent their workers from forming a union. Second, in current form American labor law provides little resource to those whose rights are violated, and imposes little penalty on those who choose to ignore the law. And third, international trade agreements make it easy for employers to escape their legal responsibility to honor workers' rights by taking their operations elsewhere in the world.

What do certain unscrupulous corporations do to fight unionization? They coerce, intimidate, threaten, and sometimes even abuse workers. They fire workers are seen talking to union representatives, as Up-To-Date Laundry did recently in Baltimore. They hire union-busting lawyers to slander the local union in front of a captive audience of workers, like the Mariott Corporation did in San Francisco. They alert INS officials to the illegal immigrants in their workforce, even though these employers conveniently ignored their workers illegal status when hiring them.

Walmart threatened to shut down its butchering operation and start selling pre-packaged meat in its stores because a mere 11 workers wanted to unionize. A company called NTN Bower tried to undermine a United Auto Workers unionization drive by threatening to move their jobs to Mexico. A leaflet they passed out to workers read, ''With the UAW your jobs may go south for more than the winter!''

This last example suggests the impact of trade agreements on U.S. anti-union activity. As Professor Kate Bronfenbrenner of Cornell University has demonstrated, ''plant closing threats and plant closings have become an integral part of employer anti-union campaigns,'' and that these tactics, combined with others, are ''extremely effective'' in undermining union organizing efforts. Professor Bronfenbrenner specifically cites NAFTA as facilitating this behavior.

All of this should make us wonder: what does the law do to stop these kind of actions? The answer is virtually nothing. The following quote from Human Rights Watch is illustrative: ''An employer determined to get rid of a union activist knows that all that awaits, after years of litigation if the employer persists in appeals, is a reinstatement order the worker is likely to decline and a modest back-pay award. For many employers, it is a small price price to pay to destroy a workers' organizing effort by firing its leaders.'' If an employer can go so far as to fire worker with near impunity, certainly the law will not be enough to dissuade this employer from other illegal anti-union tactics.

What is needed to end the abuse of these basic human rights in this country is strict enforcement of existing labor law, tougher penalties for labor law violators, the streamling of the NLRB investigative process, and restrictions on the ability of companies to shift their operations to avoid unionization. More fundamentally, we as Americans must acknowledge that these rights, the right to organize a union and bargain collectively, are indeed basic human rights, to be protected as vigilantly as are the right to worship freely and the right to free speech. Only when we take these core labor rights as seriously as our other fundamental rights will our workers achieve the respect, dignity, and justice they deserve.

TRIBUTE TO ALFRED G. FELIU

HON. JOSÉ E. SERRANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Alfred G. Feliu on the occasion of his completion of his term as Chairman of the Board of Trustees of the Bronx Museum of the Arts, a position he has held since June 1998. He served in that capacity during a challenging time in the history of the Museum, steering it through financial difficulties, leadership changes and staff disruptions into a period of stability and growth. His work on behalf of the Museum has been tireless. While the Museum was undergoing a change in Executive Directors, he virtually assumed management of this institution, working on its behalf more than 20 hours a week. His dedication to the Museum and its success is unrivaled.

Mr. Feliu is a partner in his own law firm, Vandenberg, Feliu and Peters where he specializes in employment and labor law. He has also served as an employment law mediator and arbitrator on the American Arbitration Association's National Employment Disputes Panel. He is the managing editor of New York Employment Law & Practice, a monthly newsletter published by the New York Law Journal and is the author of several books.

Mr. Feliu was born and raised in the Bronx and remains a devoted advocate of the borough. His interest in serving on the Board of the Bronx Museum of the Arts arose out of his desire to give back to his home community, and particularly the children of the Bronx, some of the wonderful opportunities he believes it afforded him.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Mr. Feliu for his work on behalf of the Bronx Museum of the Arts, and indeed on behalf of all of the people of the Bronx. We owe him a debt of gratitude.

HONORING JOSEPH LYNCH UPON HIS RETIREMENT AS COMMISSIONER OF THE NEW YORK STATE DIVISION OF HOUSING

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. REYNOLDS. Mr. Speaker, I rise today to pay tribute not only to an outstanding public servant, but a dear friend, Mr. Joseph B. Lynch. Next week, friends and co-workers will gather in Albany, NY, to salute Joe's leadership as Commissioner of the New York State Division of Housing and Community Renewal, and to extend their fondest wishes as Joe begins his retirement after a long and distinguished career.

Joe first joined DHCR in April of 1995 when he was tapped by Governor George E. Pataki to serve as Deputy Commissioner for Community Development. Successive promotions led to Joe's appointed as Commissioner on February 10, 1999.

A registered architect, graduate of Rensselaer Polytechnic Institute, and veteran of the United States Navy, Joe was former Area Manager of the U.S. Department of Housing and Urban Development (HUD) Buffalo Office and Acting Regional Administrator, where he provided an extensive range of housing and community development programs and administered HUD's operating programs in 48 counties in upstate New York.

Under Joe's leadership, a series of public-private partnerships and innovative initiatives helped revatlize communities across New York state. Joe's previous service and expertise includes serving as President and CEO of the Audubon New Community in Amherst, N.Y., Senior Staff Officer for the New York State Urban Development Corporation in the Western New York area, and Director of Design and Construction for the State University Construction Fund.

Joe has been honored countless times for his professional achievements, and is active in a wide-range of community and professional organizations.

Mr. Speaker. Throughout Joe Lynch's career, he has made a difference not only in our Western New York community and across our state, but in our nation as well. And as he begins his retirement from public service, I ask that this Congress join me in saluting Joe Lynch's career the difference that he has made.

PACIFIC SALMON RECOVERY ACT

SPEECH OF

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 13, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1157) to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes:

Mr. SIMPSON. Mr. Chairman, I would like to revise my earlier statement during debate on the Hooley amendment to H.R. 1157, the Pacific Salmon Recovery Act. During the debate I erroneously stated the Environmental Protection Agency (EPA) had ordered a landowner in my district to fill in an illegally dug stream channel. It was the U.S. Army Corps of Engineers that told my constituent to fill in the stream channel.

TRIBUTE TO FREDERICK DOUGLASS ACADEMY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. RANGEL. Mr. Speaker, I rise before you today to share with you and my colleagues here in the House, an article which appeared in the June 11, 2001 edition of The Washington Times about Frederick Douglass Academy which is located in my 15th Congressional District in central Harlem.

As a graduate of Frederick Douglass Academy, I am most proud of the hard work and commitment of their principal, Gregory Hodge and the teachers who go beyond the call of duty to see that each child leaves there with a good education.

Just recently, I sponsored two Congressional Pages who are students at Frederick Douglass, Charzetta Nixon and Leon Harris, and I am proud to say that they truly represented the best of the Academy and my Congressional District.

I commend this article to my colleagues knowing that with students like those at Frederick Douglass Academy, this nation's future is in good hands.

[From the Washington Times, June 11, 2001]

LOW BUDGET, HIGH ACHIEVERS

STAFF'S COMMITMENT DRIVES A SCHOOL'S SUCCESS IN HARLEM

(By Nate Hentoff)

Most polls indicate that education leads all other concerns among Americans. Parents, whatever they themselves have achieved, or not achieved, want their children to succeed in school and therefore in life. Many parents become desperately disappointed. Yet, in 40 years of writing about schools, I've seen that depression lift as a principal reinvents the wheel and shows how all children can learn.

A current reinventor of the wheel of learning is Gregory Hodge, the principal of the Frederick Douglass Academy in central Harlem, a predominantly black and Hispanic area of New York City.

I was not surprised when I read a story about his school earlier this year in the New York Times because I once wrote a book—''Does Anybody Give a Damn: Nat Hentoff on Education''—about schools in ''disadvantaged'' neighborhoods that also expected all of their students to learn. And they did learn.

Of the 1,100 students at the Frederick Douglass Academy, a public school, 80 percent are black and 19 percent are Hispanic. Some come from homes far below the poverty line. In a few of those homes, one or both parents are drug addicts. Seventy-two percent of the students are eligible for free lunch.

The dropout rate is 0.3 percent. If a student doesn't show up at a tutoring session, his teacher calls his mother, father or other caregiver. Every student is expected to go to college. As the New York Times reported, ''In June of last year, 114 students graduated and 113 attended colleges, some going to Ivy League or comparable schools.'' The 114th student was accepted by the Naval Academy.

During the Great Depression, I went to a similar public school. All of us were expected to go to college. Most of us were poor. At the Boston Latin School, as at the Frederick Douglass Academy, there was firm, but not abusive, discipline. And we had three hours of homework a night. There were no excuses for not turning in the work. At the Frederick Douglass Academy, the students have four hours of homework a night.

The students there take Japanese and Latin in middle school and can switch to French or Spanish in high school. At Boston Latin, we had to take Latin and Greek as well as American history. The kids at Frederick Douglass can take advanced placement courses not only in American history, but also in calculus and physics. I flunked beginning physics.

Moreover, the students at Frederick Douglass mentor elementary-school children at the public school next door. ''The idea,'' Mr. Hodge told the New York Times, ''is to show students that they have responsibilities to the Harlem community. And they are expected to be leaders and help Harlem grow.''

Near Boston Latin Schools, there were elementary school kids who, without mentoring, didn't have much of a chance to believe that they could someday go to college. But our Boston Latin principal didn't send us out to be part of a larger responsibility.

So how come Frederick Douglass Academy does what a public school is supposed to do—lift all boats? The principal, who reads every one of the 1,100 report cards, demands that his teachers expect each child to learn. The school works, he says, because it has committed teachers. ''They come in early and stay late. The teachers go with them to colleges. Some have gone in their own pockets for supplies . . . Teachers here will do everything they can to make sure kids are successful.''

A senior who had been in a high school outside New York City explained the success of the school—and his own success there—succinctly: ''They want you to learn here.''

I have been in schools at which principals are seldom seen because they don't want to take responsibility for problems that arise. And I know teachers who have enabled kids to learn in their classrooms, but worry about sending the students on to teachers who are convinced that children from mean streets and homes without books can learn only so much.

And I remember a president named Bill Clinton who spent a lot of time focusing on affirmative action to get minority kids into college. For the most part, he ignored the students who never get close to going to college because of principals, teachers and school boards who do not expect all kids to learn, and so do not demand that they do.

At a New York City school board meeting years ago, I heard a black parent accuse the silent officials: ''When you fail, when everybody fails my child, what happens? Nothing. Nobody gets fired. Nothing happens to nobody, except my child.''

He was torn between grief and rage. So are many American parents these days. At the Frederick Douglass Academy, parents see their children grow in every way. And it is a public school.

PERSONAL EXPLANATION

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. ABERCROMBIE. Mr. Speaker, yesterday, June 13, I was unavoidably absent and I was unable to vote on two rollcall votes. Had I been present, I would have voted as follows: Rollcall No. 158, approval of the Journal, ''yea'', Rollcall No. 159, passage of H.R. 1157, ''yea''.

FLAG AND FATHERS' DAY 2000

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. MICA. Mr. Speaker, on Flag Day and as we approach Fathers' Day 2000, I thought it would be appropriate to share with my colleagues and include in the CONGRESSIONAL RECORD excerpts from the publication ''War Letters: Extraordinary Correspondence from American Wars'', and a subsequent article authored by Andrew Carroll. I do not recall ever having read anything that better captures the joy of fatherhood, the scale of individual sacrifice for our Nation, or that conveys more fitting appreciation of our national insignia—our flag. In an era when nearly a third of our sons and daughters are raised without a father, when the traditional family and patriotism are wavering, it is my hope that these powerful letters may serve as a small inspiration.

Author Andrew Carroll provides a preface introduction and details the circumstances relating to the writing of each letter.

Twenty-six-year-old Capt. George Rarey, stationed in England, was informed of the birth of his first child just moments after coming back from a mission on March 22, 1944. Overwhelmed with joy, Rarey sent a letter to his wife Betty Lou (nicknamed June) in Washington, DC. A talented artist, Rarey drew a sketch to commemorate the event.

Darling, Darling, Junie!

Junie, this happiness is nigh unbearable—Got back from a mission at 4:00 this afternoon and came up to the hut for a quick shave before chow and what did I see the deacon waving at me as I walked up the road to the shack? A small yellow envelope—I thought it was a little early but I quit breathing completely until the wonderful news was unfolded—A son! Darling, Junie! How did you do it?—I'm so proud of you I'm beside myself—Oh you darling.

All of the boys in the squadron went wild. Oh its wonderful! I had saved my tobacco ration for the last two weeks and had obtained a box of good American cigars—Old Doc Finn trotted out two quarts of Black and White from his medicine chest and we all toasted the fine new son and his beautiful Mother . . . .

Junie if this letter makes no sense forget it—I'm sort of delirious—Today everything is special—This iron hut looks like a castle—The low hanging overcast outside is the most beautiful kind of blue I've ever seen—I'm a father—I have a son! My darling Wife has had a fine boy and I'm a king—Junie, Darling, I hope it wasn't too bad—Oh I'm so glad its over—Thank you, Junie—Thank you—thank you . . . .

Oh, Junie, I wish I could be there—Now I think maybe I could be of some help—There are so many things to be done—What a ridiculous and worthless thing a war is in the light of such a wonderful event. that there will be no war for Damon!—Junie, isn't there anything I can do to help out . . . .

Oh my beautiful darling, I love you more and more and more—Gosh, I'm happy!—Sweet dreams my sweet mother, Love—Rarey.

Capt. George Rarey was killed three months after writing this letter.

Even in the Internet age, many servicemen and women continued to send their letters the old-fashioned way—through the mail. In 1997, 36-year-old Major Tom O'Sullivan was in Bosnia, serving as the officer in charge of the first Armored Division Assault Command Post and, later, as the operations officer of the 4th Battalion, 67th Armor at Camp Colt. O'Sullivan frequently wrote home to his wife Pam and their two children, Tara and Conor, and on September 16, 1996—the day Conor turned seven—O'Sullivan (at far right, with his Bosnian translator) sent a birthday gift he hoped would have special meaning to his son:

Dear Conor,

I am very sorry that I could not be home for your seventh birthday, but I will soon be finished with my time here in Bosnia and will return to be with you again. You know how much I love you, and that's what counts the most. I think that all I will think about on your birthday is how proud I am to be your dad and what a great kid you are.

I remember the day you were born and how happy I was. It was the happiest I have ever been in my life and I will never forget that day. You were very little and had white hair. I didn't let anyone else hold you much because I wanted to hold you all the time . . . .

There aren't any stores here in Bosnia, so I couldn't buy you any toys or souvenirs for your birthday. What I am sending you is something very special, though. It is a flag. This flag represents America and makes me proud each time I see it. When the people here in Bosnia see it on our uniforms, on our vehicles, or flying above our camps, they know that it represents freedom, and, for them, peace after many ears of war. Sometimes, this flag is even more important to them than it is to people who live in America because some Americans don't know much about the sacrifices it represents or the peace it has brought to places like Bosnia.

This flag was flown on the flagpole over the headquarters of Task Force 4–67 Armor, Camp Colt, in the Posavina Corridor of northern Bosnia-Herzegovina, on 16 September 1996. It was flown in honor of you on your seventh birthday. Keep it and honor it always.

Love, Dad.

REDWOODS DEBT FOR NATURE

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 14, 2001

Mr. POMBO. Mr. Speaker, the staff report is entitled Redwoods Debt-For-Nature Agenda of the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to Acquire the Headwaters Forest. This report was prepared for the Committee to wrap up some oversight work on the FDIC and Office of Thrift Supervision redwoods debt-for-nature matter started during the last congress. The analysis concludes that there was a redwoods debt-for-nature scheme pursued by the bank regulators at the FDIC and the OTS beginning in at least February 1994. The startling part is that the banking claims against Mr. Charles Hurwitz (stemming from his minority ownership of a failed savings and loan) that were to be used a leverage to get Pacific Lumber Company's redwoods, a company owned and controlled by Mr. Hurwitz, were loser claims. By the FDIC's own internal evaluation, there was a 70 percent chance the claims would fail procedurally and more than 50 percent chance of failing on the merits.

The conduct of the bank regulators was so bad that it led a U.S. District Court Judge, the Honorable Lynn Hughes to conclude that the agencies used tools equivalent to the cosa nostra—a mafia tactic—in their pursuit of Mr. Hurwitz and his privately owned redwoods. This staff report gives even more basis to validate the conclusion of the federal judge. No one-whether a millionaire industrialist or a laborer in a factory-should be subject to the unchecked tools of an out of control ''independent'' agency like the FDIC or the OTS. The redwood scheme grew as the FDIC understood the importance of its—and the OTS'—potential claims as the leverage for the redwoods during an extraordinary 1994 strategy meeting with a Member of Congress—19 months before the claims were even authorized to be filed. The other bank regulator, the OTS, was enlisted by the FDIC right after that meeting. They were hired to pursue the same claims against Mr. Hurwitz administratively as leverage for their claims. FDIC's reason for teaming up with the OTS: to get ''the trees,'' according to the notes of their own staff.

The redwoods scheme was introduced through an intense lobbying campaign by environmental groups, including Earth First! They penetrated the ''independent'' FDIC, the FDIC's outside counsel, the OTS, the Administration, the Department of the Interior, the White House, and Members of Congress. The redwoods scheme was why ordinary internal operating procedures of the FDIC that would have closed the case against Mr. Hurwitz were not followed. The redwoods scheme overrode the initial internal conclusion that the claims against Mr. Hurwitz were losers for the bank regulators and should not have been bought under the written policy of the agency. In fact, just a few days before the staff recommendation flipped from ''don't sue'' to ''sue,'' FDIC officials met with the top staff from the Office of the Secretary of the Department of the Interior. Their notes from the meeting concluded by saying, ''If we drop suit, [it] will undercut everything.'' Of course ''everything'' was the just-discussed scheme to leverage redwoods from Mr. Hurwitz.

The FDIC (and its agent, the OTS) were the critical part of the scheme. The bank regulators were willing advocates who promoted a redwoods exchange for banking claims against Mr. Hurwitz well before the claims were authorized by the FDIC board, well before they were filed, and very well before Mr. Hurwitz raised the notion of redwoods. The evidence of the FDIC's participation in the redwoods scheme contradicts the testimony offered by the witnesses at the December 12, 2000, hearing of the Committee Task Force. That testimony was that banking claims or the threat of banking claims against Mr. Hurwitz involving USAT were not brought as leverage in a broader plan to get the groves of redwoods from Mr. Hurwitz. The weight of the documentation contradicts that conclusion.

The cost of bringing these claims that would have been ''closed out'' if it were the normal situation—is nearly $40 million to Mr. Hurwitz. One of two things needs to happen. We need to either have a hearing on this situation or the FDIC and OTS boards need to correct this action and revisit the underlying board actions that authorized the suits in the first place. I would be surprised if the FDIC and OTS board members actually knew what their staffs were doing with the redwoods scheme. I hope they would be surprised, but the evidence is now here for them to see. This is embarrassing to the bank regulators—they need to address it now.

Redwoods Debt-for-Nature Agenda of the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to Acquire the Headwaters Forest, June 6, 2001

Preface

Documentation References

Documentation is referenced in parentheticals throughout the text of this report. References to ''Document A'' through ''Document X'' are references to documents that were incorporated into the hearing record by unanimous consent by the Task Force on Headwaters Forest and Related Matters on December 12, 2000. These documents are contained in the files of the Committee and those that are referred to are reproduced in Appendix 1. Documentation referenced as ''Record 1,'' ''Record 2,'' etc. is documentation found in Appendix 2. Much of this documentation was not introduced as part of the hearing record, and it is provided for reference to substantiate key facts referenced in this report. References to ''Document DOI A,'' ''Document DOI B,'' etc. are references to documents that were incorporated into the hearing record by unanimous consent of the Task Force on December 12, 2000. These documents were produced to the Committee from the Department of the Interior. Appendix 4 contains the correspondence between the Comntittee and the bank regulators.

All documentation referenced in this report and attached in an appendix is necessary to contextually verify the information and conclusions reached in this report on subjects within and related to the jurisdiction of the Committee on Resources. The records, documents, and analysis in this report are provided for the information of Members pursuant to Rule X 2.(a) and (b) of the Rules of the House of Representatives, so that Members may discharge their responsibilities under such rules.

Role of the Committee on Resources: The Headwaters Forest Purchase and Management

Ordinarily, one would think that the Committee on Resources does not regularly interact or have jurisdiction over bank regulators. It is important to understand that the Committee on Resources has jurisdiction over the underlying law that initially authorized the purchase of the Headwaters Forest by the United States and management of the land by the Bureau of Land Management. That law was enacted in November 1997 and is P.L. 105–83, Title V, 111 Stat. 1610. That legislation was incorporated in an appropriations bill that funded the Department of the Interior.

Several conditions constrained the Headwaters authorization. One of those conditions was that any ''funds appropriated by the Federal Government to acquire lands or interests in lands that enlarge the Headwaters Forest by more than five acres per

each acquisition shall be subject to specific authorization enacted subsequent to this Act.'' This clause in the authorizing statute is commonly referred to as the ''no more'' clause, because it prohibits federal money from being used to expand the Headwaters Forest after the initial federal acquisition.[1] This was part of the agreement between the Administration and the Congress when funds were authorized and appropriated for the purchase of the Headwaters Forest. The federal acquisition actually took place on March 1, 1999, the final day of the authorization, at which time all federal activity to acquire additional Headwaters Forest should have been dropped. Thus, the FDIC's lawsuit and the OTS's administrative action should be dropped.

This statute, including the ''no more'' clause, is part of the Committee's basis to compel bank regulators to provide documents and testimony about subjects related to the Headwaters Forest, debt-for-nature, redwoods, and related subjects. The sheer volume of material possessed by the banking regulators on subjects related to the Headwaters Forest, possible acquisition of Headwaters Forest, and redwoods debt-for-nature schemes provide more than adequate basis for the Committee's jurisdiction over these agencies about these subjects. Additionally, the banking regulators have submitted themselves, properly, to the jurisdiction of the Committee.

Use of Records and Documents

The FDIC and the OTS will undoubtedly complain that use of some of the records and documents disclosed in this report will jeopardize their case against Mr. Hurwitz, and that certain litigation privileges or a court seal apply to the documents; however, as stressed above, all documentation in this report and attached in an appendix is necessary to contextually verify the information and conclusions reached in this report. The documentation directly bears on subjects within and related to the jurisdiction of the Committee on Resources.

The records, documents, and analysis in this report are provided for the information of Members. Informing Members has legal basis in Article I of the Constitution and is implied because Members of Congress need accurate information to legislate. Indeed, the Committee has legislated on the Headwaters Forest. Informing members also has legal basis under Rule X 2.(a) and (b) of the Rules of the House of Representatives. Members will be better able to discharge their responsibilities under such rules after reviewing the information in this report.

Some may believe that litigation privileges might prohibit use of the records not already part of the Task Force hearing records. However, litigation privileges do not generally apply to Congress. They are created by the judicial branch of government for use in that forum. Assertions of any litigation privileges by the FDIC or the OTS or Mr. Hurwitz related to documents that are disclosed in this report may still be made in the judicial forum.

Committee staff has redacted sensitive information (for example information unrelated to redwoods or debt-for-nature and information involving legal strategy) of certain records and documents to preserve the integrity of the judicial and administrative proceedings. It is expected that the FDIC and OTS may erroneously say that disclosure of certain documents and records will undercut their litigation position. While many of the documents and records disclosed may be quite embarrassing to the bank regulators, embarrassment is no basis for keeping the information about the unauthorized redwoods debt for nature scheme secret. Some sunshine will expose the unauthorized redwoods agenda of the bank regulators in this case and sanitize the system in the future.

Background and Summary

On December 12, 2000, the Task Force on Headwaters Forest and Related Matters held a hearing that exposed an evolving redwoods ''debt-for-nature'' scheme undertaken by bank regulators—the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS). Presented at that hearing was substantial documentation and testimony showing how federal banking regulators, swayed by an intense environmentalist lobbying campaign, willingly became integral to a ''debt-for-nature'' scheme to obtain redwood trees.

In short, banking regulators provided the otherwise unavailable leverage for a federal plan to extort privately owned redwood trees. The leverage used was the threat of ''professional liability'' banking claims against Mr. Charles Hurwitz, a minority owner of United Savings Association of Texas (USAT), a failed Texas savings and loan.

Mr. Hurwitz was a favorite target of certain environmental activists who wished to obtain the large grove of redwood trees in northern California, redwoods that belonged to a company, the Pacific Lumber Company, also owned by Hurwitz. The environmental interests pressured Congress, the Administration, and the banking regulators to bring the banking actions against Mr. Hurwitz and USAT. The idea was that the actions or threat of actions would lever or even force Mr. Hurwitz into transferring redwood trees to the federal government.

The FDIC suit (Federal Deposit Insurance Corporation, as manager of the FSLIC Resolution Fund v. Charles Hurwitz, Civil Action No. H–95–3956) and the OTS administrative action (In the Matter of United Savings Association of Texas and United Financial Group, No. WA 94–01) against Mr. Hurwitz actually became what the environmentalists and political forces sought: the legal actions were the leverage for redwoods.

The bank regulators knew that their actions would be the leverage for such a debt-for-nature transaction. Between late 1993 and when the actions were initiated,[2] the bank regulators became more and more enmeshed with the environmental groups, the Department of the Interior, and the White House in the redwoods debt-for-nature scheme. In the end, they ignored every prior internal analysis indicating that they would lose the USAT suit, so they teamed up and brought it administratively and in the courts.

Ultimately, the FDIC suit and their hiring of OTS to bring the separate administrative action forced Mr. Hurwitz to the negotiation table. The bank regulators, in concert with the Department of the Interior and the White House, actually baited Mr. Hurwitz into raising the redwoods issue first, so it would not appear that the bank regulators were seeking redwood trees.[3] Indeed the bank regulators still try to propogate the fiction that Mr. Hurwitz somehow raised the issue first, but they can point to no document written evidence prior to September 6, 1995, when Mr. Hurwitz finally submitted and broached the possibility of swapping redwoods for bank claims.

After an intense banking regulator effort to get the redwoods that lasted from 1993 through 1998, the federal government and the State of California switched the plan and purchased the redwood land owned by Mr. Hurwitz's company. They did so as authorized by Congress (P.L. 105–83, Title V, 111 Stat. 1610).

After the federal purchase, the residue was: (1) fatally flawed banking claims that lacked merit; (2) bank regulators standing alone having been used politically by the White House and Department of the Interior; (3) a group of environmentalists still screaming ''debt-for-more-nature;'' (4) a federal judge who compared the tactics of the bank regulators to those of hired governments and the ''Cosa Nostra'' (the mafia); and (5) Mr. Hurwitz who was required to spend upwards of $40 million to fight the scheme. In short, the residue was a big mess.

However, not until the oversight review and December 12, 2000, hearing of the Task Force did the banking regulators' redwoods ''debt-for-nature'' motivation, which trumped their own negative evaluation of the merits of their case, become more fully understood.[4] It was clear after the hearing that the ''professional liability'' claims would have been administratively closed—never even brought to the FDIC board by FDIC staff for action—had Mr. Hurwitz not owned Pacific Lumber Company and the Headwaters Forest redwood trees.

Instead, intense political pressure, intense environmental lobbying, and White House pressure to pursue the banking claims as leverage for redwoods outweighed the standard operating procedure to administratively close the USAT case, because there was no USAT case. Two sets of banking regulators—the FDIC and the OTS—became willing instruments and partners in the debt-for-nature scheme as they violated their own test for bringing ''professional liability'' claims. Bank regulators brought the claims against Mr. Hurwitz even though they were more likely than not to fail and were not cost effective.

The banking regulators' own assessment was that their action would have a 70% likelihood of failure on statute of limitation grounds alone. Even if the claims survive the statute of limitation challenges, their own cerebral assessment put less than a 50% likelihood of success on the merits of their claims. These are not the conclusions of the Task Force, although some Members may well agree with them; they are the conclusions of the bank regulators themselves.

Moreover, the bank regulators (OTS and FDIC) held numerous meetings about the redwoods debt-for-nature scheme, and at a critical juncture right before they reversed their recommendation to the FDIC board, they met with DOI. The bank regulators walked away from that meeting knowing that ''[i]f we drop [our] suit, [it] will undercut everything.'' (Record 21). This is the meeting that most likely ensured that the leverage for the redwoods desired by the DOI and the Clinton Administration would become real through filing legal and administrative actions.

These contacts were far outside of normal operating practice for banking regulators and were described by the former Chairman of the FDIC as ''shocking'' and ''highly inappropriate'' (Hearing Transcript, 43–44).

In addition, the former FDIC Chairman told the Task Force that environmental reference to redwoods does not have ''any relevance whatsoever [on] whether or not you [the FDIC] sue[s] Charles Hurwitz and Maxxam over the failure of United Savings. Whether they own redwood trees or not is absolutely, totally irrelevant.''—(Hearing Transcript, page 45). This stinging rebuke from a past FDIC Chairman is a fitting assessment of the actions of an agency caught up in a debt-for-nature agenda that was too big, too political, and too unrelated to its statutorily authorized purpose.

While there were many factors that nudged the FDIC, and by association the OTS, into the debt-for-nature scheme—its own outside counsel, the law firm of Hopkins & Sutter—

provided early and direct links into the environmental advocates who lobbied and advocated for federal acquisition of the Headwaters Forest through a debt-for-nature scheme. In fact, they were selected over as outside counsel other firms because of their environmental connections and ability to handle a redwoods debt-for-nature swap.

In addition, the predisposition of the legal staff of the FDIC and OTS, the strong desires of Department of the Interior and the White House, the creative lobbying of the Rose Foundation and the radical Earth First! protesters (whose effect was felt and noted in the FDIC Board Meeting discussions during consideration of the USAT matter) all allowed the redwoods debt-for-nature scheme to pollute FDIC and OTS decision-making about the potential claims over USAT's failure. Very little if any documentation provided to the Task Force justified, on a substantive basis, the decision to proceed with the banking actions against Mr. Hurwitz and the other USAT officers and directors.

Redwoods and ''debt-for-nature'' were not part of banking regulators decisionmaking or thought process early in the investigation of possible USAT banking claims—from December 1988 through about August 1993. The notion was first introduced to the FDIC in November 1993, when the redwoods debt-for-nature proposal sent to them by Earth First! was ''reviewed'' by FDIC lawyers. The first Congressional lobbying of bank regulators promoting redwoods debt-for-nature occurred by letter on November 19, 1993. The first known in-person lobbying of bank regulators by a Member of Congress about potential claims of bank regulators being swapped for redwoods occurred in February 1994. The tainting of any possible legitimate banking claims began with the occurrence of that very unusual meeting.

The documents and records show how the redwoods debt-for-nature notion ultimately permeated bank regulators decisions while they developed and brought their claims against W. Hurwitz. As the claims were kept active during fourteen tolling agreements between bank regulators and Mr. Hurwitz as the leverage against him for redwoods using those claims was applied. And when the claims were authorized and then filed on August 2, 1995, the claims became more leverage.

In the end, the evidence is clear that, but for the environmentalists pressure to get redwoods through debt-for-nature and, but for Congressional pressure to get leverage on Mr. Hurwitz to submit and give up his redwoods to the government, the banking claims would not even have been brought.

Interestingly, it was unknown early in that process whether a settlement for potential USAT claims would be viable at all or include redwoods, or whether the government would possibly purchase the redwoods. In any case, the threat of and actual FDIC and OTS claims brought Mr. Hurwitz to the negotiating table. Prior to the claims being filed, the FDIC conspired with the White House and the Department of the Interior about the importance and role of the banking claims to advance the debt-for-nature redwoods agenda. The OTS was present during some of those meetings and was reportedly ''amenable'' to the redwoods debt-for-nature strategy.

Even after the outright federal acquisition, which was by purchase, the call became ''debt for more nature,''[5] through a continued use of the bank regulators leverage of suits that were in process already. The claims continued to be used by the federal government to lever Mr. Hurwitz for more nature, at that juncture arguably in violation of the authorizing statute.[6]

What remained at the end of the day were filed claims that would not have been brought under ordinary circumstances had Mr. Hurwitz not owned redwoods. The bank bureaucracy, with its reason for bringing the claims in the first place having evaporated, continued the fiction: they continued propagating the false notion that redwoods and debt-for nature had nothing to do with their bringing the USAT claims. Mr. Hurwitz raised it first, they said, even as the FDIC told Department of the Interior that they needed an ''exit strategy'' from the redwoods issue. If redwoods had nothing to do with bringing or pursuing the claims in the first place, then there would be no need for an ''exit'' strategy from the redwoods issue.

The documentation discovered by Chairman Young and Task Force Chairman Doolittle, which is explained in this report, dispels the notion that Mr. Hurwitz raised the redwoods debt-for-nature first. To the contrary, the federal government, bank regulators included, actually baited Mr. Hurwitz into raising it, and they became uncomfortable when he had not raised it nearly a year after the FDIC suit was filed and months after the OTS suit was brought.

This report synthesizes records and information about the redwoods ''debt-for-nature'' scheme of banking regulators, the information subpoenaed from the FDIC and OTS, and the information collected at the December 12, 2000, hearing of the task force.

Ordinary Role of the FDIC and OTS: Regulate Banks and Recover Money

As a starting point, it is helpful to understand the ordinary and authorized role of bank regulators when financial institutions fall. The FDIC is the independent government agency created by Congress in 1933 to maintain stability and public confidence in the nation's banking system by insuring deposits. The FDIC administers two deposit insurance funds, the Bank Insurance Fund for commercial banks and other insured financial institutions and the Savings Association Insurance Fund for thrifts.

Other than its deposit insurance function, the FDIC is the primary regulator for banks. It supervises, monitors, and audits the activities of federally insured commercial banks and other financial institutions. The FDIC is also responsible for managing and disposing of assets of failed banking and thrift institutions, which is what it did concerning USAT, 24 percent of which was owned by Mr. Charles Hurwitz. In connection with its duties associated with failed banks, the FDIC manages the Federal Savings and Loan Insurance Corporation Resolution Fund, which includes the assets and liabilities of the former FSLIC and Resolution Trust Corporation.

The OTS is the government agency that performs a similar function to that of the FDIC for thrifts insured through a different insurance fund. The OTS is the primary regulator for thrifts. The responsibilities of the FDIC and OTS overlap in certain instances. The OTS has explained how the two agencies divide those shared responsibilities: the FDIC ''seek[s] restitution from wrongdoers associated with failed thrifts'' and the OTS ''focus[es] on preventing further problems.'' The USAT case is an exception to these stated policies of federal institutions.

Nowhere in the statutes authorizing the OTS[7] or the FDIC[8] is there authority to pursue ''professional liability'' claims or other claims for purposes of obtaining redwood trees or ''debt-for-nature'' schemes. The sole purpose of such actions with respect to failed institutions is to recover funds or cash not trees and not nature.

The mission of recovering cash was acknowledged by the OTS and FDIC. (See, Hearing Transcript, page 63, 64, Ms. Seidman (OTS) answered: ''Our restitution claim is brought for cash.'' Ms. Tanoue (FDIC) answered: ''[T]he FDIC considered all options to settle claims, at the encouragement of Mr. Hurwitz and his representative agency, looked at trees, but the preference has always been for cash.'') Indeed, this may be why the FDIC and the OTS have consistently maintained that Mr. Hurwitz was the first to bring the notion of redwood trees to them. It is the only position they can take that is consistent with their underlying authority. This being the case, there should have been few, if any, records concerning redwoods produced to the Committee. To the contrary, the records produced were voluminous—and redwoods were even a topic discussed by the FDIC board when it reviewed whether to bring suit regarding USAT.

Chronological Facts and Analysis Regarding the FDIC and OTS Pursuit of USAT Claims

1986: MR. HURWITZ BUYS PACIFIC LUMBER COMPANY AND ITS REDWOOD GROVES

Mr. Charles Hurwitz owns Pacific Lumber Company. He acquired it in a hostile takeover on February 26, 1986, using high yield bonds. Pacific Lumber Company owned the Headwaters Forest, a grove of about 6,000 acres of old redwood trees. That property became desired by environmental groups because of the redwood trees.

After Mr. Hurwitz bought Pacific Lumber Company, he and the company became a target of several environmental groups when the company increased harvest rates on its land. Harvests were still well within sustainable levels authorized under the company's state forest plan, but harvest rates were generally greater than prior Pacific Lumber Company management undertook.

Environmentalist publicly framed the Hurwitz takeover of Pacific Lumber Company, as that by a ''corporate raider'' who floated ''junk bonds'' to finance a ''hostile takeover'' of the company to simply cut down more old redwood tree. It is unclear whether framing this issue in such a way had more to do with intense fundraising motivations aligned with certain environmental groups described in the recent Sacramento Bee series about financing the environmental movement (www.sacbee.com/news.proiects/environment/20010422.html) or more to do with ensuring that trees are not cut.

At this juncture, Mr. Hurwitz and Pacific Lumber Company were targets of environmentalists, but his opponents had little leverage to stop the redwood logging on the company's land other than the traditional Endangered Species Act or State Forest Practices Act mechanisms.

1988: HURWITZ'S 24% INVESTMENT IN TEXAS SAVINGS AND LOAN IS LOST

Mr. Hurwitz also owned 24% of USAT, a failed Texas-based thrift bank. The bank failed on December 30, 1988, just like 557 banks and 302 thrifts failed in Texas between 1985 and 1995 resulting from the broad-based collapse of the Texas real estate market. As a result of the failure, the banking regulators say they paid out $1.6 billion from the insurance fund to keep the bank solvent and secure another owner. That number has never been substantiated by documentation.

Because Hurwitz owned less than 25% of the bank, and because he did not execute what is known as a ''net worth maintenance agreement,'' he was not obligated to contribute funds to keep the bank solvent when it failed. Such agreements (or obligations when a person owns 25 percent or more of an institution) are enforced through what is known as a ''professional liability'' action brought by bank regulators.

In certain cases, the FDIC and OTS are authorized by law to bring to recover money is

for the ''professional liability'' against officers, directors, and owners of failed banks. The idea is to recover restitution—money—it took to make failed institutions solvent. This type of claim was brought against Mr. Hurwitz by the bank regulators at OTS after they were hired to do so by the FDIC. The nature of ''professional liability'' claims are explained well in bank regulator's publication as follows:

Professional Liability [PL] activities are closely related to important matters of corporate governance and public confidence. . . . [They] strengthen the perception and reality that directors, officers, and other professionals at financial institutions are held accountable for wrongful conduct. To this end, the complex collection process for PL claims is conducted in as consistent and fair a manner possible. Potential claims are investigated carefully after every bank and savings and loan failure and are subjected to a multi-layered review by the FDIC's attorneys and investigators before a final decision is rendered on whether to proceed. . . . (Managing the Crisis: The FDIC and the RTC Experience 1980–94, published by FDIC, August 1998, page 266)

Indeed, the bank regulators at the FDIC undertook an investigation of USAT beginning when USAT failed on December 31, 1988, to determine what claims they might have against USAT officers, directors, and owners.

1989–SEPTEMBER 1991: INVESTIGATION CONTINUES

The investigation of USAT proceeded, and interim reports were issued by law firms investigating potential USAT claims for the FDIC. Environmentalists initiated various non-banking campaigns to block redwoods timber activities of Pacific Lumber Company on their Headwaters land.

OCTOBER 1991–NOVEMBER 1993: BANK REGULATORS FIND NO FRAUD, NO GROSS NEGLIGENCE, NO PATTERN OF SELF-DEALING

By October 1991, the bank regulators determined that there was no ''intentional fraud, gross negligence, or pattern of self-dealing'' related to officer, director or other professional liability issues related to the failure of USAT (Document B, page 7). They also determined that there was ''no direct evidence of insider trading, stock manipulation, or theft of corporate opportunity by the officers and directors of USAT.'' (Document B, page 14). Bank regulators said that the USAT ''directors' motivation was maintenance of the institution in compliance with the capitalization requirements and not self gain or violation of their duty of loyalty.'' (Document B, page 17) There being no wrongful conduct, bank regulators concluded that they had no valid basis to pursue banking claims[9] against the owners of USAT to recover money for its failure.

In spite of the determination that there was no basis to file a claim regarding USAT, a determination that was unknown to Mr. Hurwitz or the other potential defendants at the time, the banking regulators and Hurwitz made numerous agreements beginning November 22, 1991, expiring July 31, 1995, to toll the statute of limitations. This gave the bank regulators more time to investigate while they withheld filing of a claim. These agreements are fairly routine in complex cases like USAT.

Beginning in August 1993 while the statute was still tolled, several actions to attempt to acquire the Headwaters Forest were taken in Congress and urged by environmental groups. For example, on August 4, 1993, Rep. Hamburg introduced a bill to purchase 44,000 acres (20%) of the Pacific Lumber Company's land and make it into a federal Headwaters Forest. In August 1993, the first contact between the Rose Foundation (the primary environmental proponent of advancing USAT claims against Hurwitz to obtain Pacific Lumber redwoods) and attorneys for the FDIC was made.

As early as November 30, 1993,[10] FDIC attorneys were aware of the Hamburg Headwaters bill and ''materials from Chuck Fulton re: net worth maintenance obligation'' (Record 3A). The handwritten FDIC memo from Jack Smith to Pat Bak notes that the professional liability section ''is supposed to pursue that claim.'' It reminds her not to ''let it fall through the crack!'' And if the claim is not viable, the banking regulators ''need to have a reliable analysis that will withstand substantial scrutiny.'' (Record 3A)

Pressure to advance claims against Hurwitz in connection with the redwoods in a debt-for-nature swap came in a variety of forms to the FDIC. It first came from Congress on November 19, 1993, in a letter to the FDIC Chairman from Rep. Henry B. Gonzolez, Chairman of the House Committee on Banking (Record 2). Numerous written Congressional contacts with the banking regulators, most urging FDIC or OTS to bring claims against Hurwitz occurred in late 1993 when the debt-for-nature scheme was framed[11] and subsequently over the years.

On the same day, Bob DeHenzel, an FDIC lawyer, got an e mail about a ''strange call'' regarding USAT (Record 1). It was received by Mary Saltzman from a Bob Close, who claimed to be ''working with some environmental groups'' and wished to talk to whoever was investigating the USAT matter. He had detailed knowledge about a $532 million claim related to USAT and Charles Hurwitz. He made the comment that ''people like Hurwitz must be stopped.'' He said he was working with an environmental group called EPIC in Northern California. Paul Springfield, an FDIC investigator, documented a conversation he had with DeHenzel that day (Friday, November 19, 1993) about the call from Bob Close. Mr. Springfield verified that the FDIC lawyer, Mr. DeHenzie, was familiar with a Hurwitz connection to forest property:

he [DeHenzel] had some knowledge of the nature of the inquiry [by Mr. Close] as well as the attorney Bill Bertain disclosed by Close. DeHenzel stated that this group was involved in fighting a takeover action of some company by Hurwitz involving forest property in the northwestern United States. Apparently they are trying to obtain information to utilize in their efforts. (Record 1)

Then on November 24, 1993, Mr. DeHenzel, faxed a November 22, 1993, memo he received on November 22, 1993, from the radical group Earth First! to another FDIC staff member. That memo laid out the ''direct connection between the Savings and Loans, the FDIC and the clearcutting of California's ancient redwoods.'' (Document E) The memo introduced the concept that the USAT ''debt'' (which were only potential claims that FDIC internal analysis had already concluded had no basis) should be traded for Pacific Lumber Company redwoods. An excerpt of the memo lays out the scheme:

Coincidently, Hurwitz is asking for more than $500 million for the Headwaters Forest redwoods. So if your agency can secure the money for his failed S&L, we the people will have the funds to by Headwaters Forest. Debt-for-nature. Right here in the U.S. That's where you come in. Go get Hurwitz. (Document E)

The FDIC apparently took Earth First! seriously. Within one month, the FDIC lawyers reported to the acting chairman in a memo that they were ''reviewing a suggestion by 'Earth First' that the FDIC trade its claims against Hurwitz for 3000 acres of redwood forests owned by Pacific Lumber, a subsidiary of Maxxam.'' (emphasis supplied) (Document G, December 21, 1993, Memorandum to Andrew Hove, Acting Chairman, From Jack D. Smith, Deputy General Counsel).[12] The handwritten note on the top of the page indicates that the acting chairman Hove was orally briefed about the USAT situation prior to the memo.

Thus, well before Mr. Hurwitz raised the issue of redwoods and debt-for-nature directly with the FDIC in August or September 1996[13] with the bank regulators, its lawyers had received written proposals from the radical group Earth First!, and the FDIC was undertaking a review of the proposals. These were proposals making the connection between Hurwitz, the redwoods, and USAT bank claims.

Then in the close of 1993, a press inquiry report to Chairman Hove on debt-for-nature and the redwoods was received and documented from the Los Angeles Times. The press question was whether FDIC lawyers have considered whether ''we could legally swap a potential claim of $548 million against Charles Hurwitz (stemming from the failure of United Savings Association of Texax) for 44,000 acres of redwood forest owned by a Hurwitz controlled company.'' (Record 3B)

The redwoods debt-for-nature scheme had been introduced via these various venues during 1993. At the same time FDIC's own analysis had shown absolutely no basis for a banking claim lawsuit involving USAT. However, it was not until early 1994 when the FDIC and their agent, the OTS, adopted the redwoods debt-for-nature scheme, and it became inextricably intertwined in its USAT bank claims. Ironically, it was political forces that enticed the bank regulators, who are supposed to act on bank claims without political influence, into wholesale and willing adoption of the redwoods debt-for-nature scheme.

1994: UNDISCLOSED CONGRESSIONAL MEETINGS LOBBYING ON THE REDWOODS ''DEBT-FOR-NATURE'' PLAN

By February 2, 1994, the FDIC attorneys knew the weakness of several of its net worth maintenance claims and it acknowledged that it ''can point to no evidence showing that either UFG or Hurwitz signed a net worth maintenance agreement'' (Record 5, page 6). They acknowledged the weakness in a status memo (Record 5).

As a result, the FDIC teamed up with the OTS to have OTS attempt to construct an ''administrative'' net worth maintenance claim against Mr. Hurwitz and his company that owned the redwoods. They believed (but offered no proof that) ''the actual operating control of [MCO, FDC, and UFG] was exercised by Charles Hurwitz.'' (Record 5, page 9). In short, FDIC did not have a claim, but the OTS may be able to bring an action in an administrative forum[14] that was much more conducive to bank regulators, so the FDIC would hire the OTS.

The net worth maintenance claim was important because if it could be established on the facts (i.e., if Mr. Hurwitz owned 25 percent of USAT or he was somehow in control of USAT) it could mean he would be liable for that percentage of the USAT loss, which totaled $1.6 billion.[15] In that way the bank regulators could conceivably get into Mr. Hurwitz's assets, including his holding company assets which included the redwoods.

However, in written correspondence and at the Task Force hearing on December 12, 2000—the FDIC and the OTS denied that the litigation concerning USAT and Mr. Hurwitz had anything to do with redwoods.[16] They also denied that their discovery tactics were improper or for the purpose of ''harassment.''[17] One exchange at the hearing between Mr. Kroener, the FDIC's General

Counsel and Chairman Doolittle, however, typifies the response to the question of whether the bank regulators' litigation had anything to do with redwoods or leveraging redwoods:

Mr. DOOLITTLE. . . . Did this litigation or discovery tactic [harassment through discovery] have anything to do with redwoods or the desire to create a legal claim to leverage redwoods?

Mr. KROENER. It did not. . . .

(Hearing Transcript, page 99)

While they have publicly denied any linkage, their own written words show the opposite. There was indeed a scheme involving politicizing bank claims against Mr. Hurwitz. Mr. Kroener's answer and the repeated denials of a linkage is purely wrong.

A superb example of just how wrong Mr. Kroener's answer was is contained in the previously unreleased meeting notes from a February 3, 1994, meeting between FDIC legal and Congressional staff and a U.S. Congressman. The redwoods debt-for-nature linkage was the point of the meeting.

The high ranking FDIC lawyers working on the redwoods case—Mr. Jack Smith, FDIC Deputy General Counsel, and Mr. John Thomas—and a Rep. Dan Hamburg[18] met on February 3, 1994, to discuss the potential banking claims targeting Mr. Hurwitz.[19] (Record 2A).

The fact that the meeting occurred at all—especially that it occurred eighteen months prior to the USAT claim being authorized or filed—and the notes from the meeting evince that leverage for redwoods was promoted by FDIC lawyers. The notes also show that the FDIC knew claims targeting Hurwitz were invalid and probably could not be used as leverage (Record 2A). Highlights of the Spittler (Record 2A, page ES 0509) meeting notes are as follows.

Rep. Hamburg had ''an immediate interest in the case,'' probably because he had a bill pending to purchase the Headwaters, and the proposal from environmentalists in his district to swap the Hurwitz banking claim ''debt'' for redwoods had been generally floated. (Record 8A, The Humboldt Beacon, Thursday, August 26, 1993, Earth First! Wants 98,000; 4,500 Acres Tops, PL Says.)

According to Spittler's notes, which are Record 2A, Rep. Hamburg said he was ''interested enough over potential filing of the complaint to ask what is about to proceed.'' And Hamburg [r]ealized that this possible avenue would be lost.'' The ''avenue'' he was referring to was applying leverage against Mr. Hurwitz for a redwoods debt-for nature swap, and Jack Smith obviously understood this. According to Spittler's notes, Smith replied, it is ''very difficult to do a swap for trees,'' which means Smith knew that the authority of the FDIC to recover restitution in trees was difficult or impossible.

Smith then told Hamburg about the USAT investigation: ''The investigation has looked at several areas. [One c]laim [is] on the net worth maintenance agreements.''[20] (Record 2A) The other FDIC attorney present, Mr. John Thomas, acknowledged the fatal flaw of FDIC's claim: ''[There] have been attempts to enforce this, [referring to the net worth maintenance agreement.] Thomas then said, ''we can't find signed agreement [between] FSLIC [and USAT/Hurwitz]. We never found the agreement.'' Record 2A) Thomas was absolutely correct—because there never was a net worth maintenance agreement signed by Mr. Hurwitz.

Besides the highly irregular nature of any communication between the FDIC and anyone about a case under investigation this communication is incredible for two reasons. First, it shows the willful manner in which FDIC volunteered to get involved in a political issue and mix potential claims with the redwoods issue. The meeting notes prove that the FDIC lawyers actually secretly briefed a Congressman about the specifics of an ongoing investigation that would become mixed with a political issue.

Second, the timing of the Congressional strategy session was eighteen months before the FDIC board had not even approved filing a claim against Mr. Hurwitz—and its lawyers were then discussing the specifics their investigation of a potential claim in the context of the scheme that would use the potential claim to obtain redwood trees.[21] The highly irregular nature of this early meeting injected a political dynamic to a case still under investigation. This was obvious to former FDIC Chairman Bill Isaac. He testified to the Task Force that the—

discussions that occurred between FDIC staff and people outside the Agency prior to and during litigation were inappropriate. The fact that those discussions occurred exposes the FDIC and the OTS to the charge that the motivation for their litigation was to pressure Charles Hurwitz and Maxxam to give up their private property, the redwood trees owned by Pacific Lumber. . . . [T]heir repeated contacts with parties with whom they have no business discussing this litigation, congressional and administrative officials and environmental groups, leaves them open to whatever negative conclusions one might care to draw. (Hearing Transcript, pages 15—16).

Mr. Isaac noted the impropriety later again in the hearing.

—that really would have shocked me as chairman to see the FDIC staff having meetings with people outside the Agency about the redwood trees, and . . . congressional officials about a possible litigation we're thinking about bringing involving redwood trees; you know, somehow tying these redwood trees into it, and getting that mixed up in our decision as to whether to bring a suit over the failure of a bank. (Hearing Transcript, page 44–45)

The content of the meeting between Hamburg, Smith (as opposed to the fact that the meeting even occurred), is even more appalling considering Jack Smith's next comment. According to Spittler's notes, he said ''If we can convince the other side [Hurwitz] that we have claim[s] worth $400 million and they want to settle, could be a hook into the holding company.'' Of course, the ''convincing'' about valid claims was the leverage, and the ''hook'' into the holding company was getting company assets, including redwood trees. This was redwoods debt-for-nature. FDIC was part of the redwoods scheme.

Not only does this show that the idea about debt-for-nature was real to the FDIC lawyers, it shows when they promoted it at a congressional meeting in February 1994, more than 18 months before the FDIC lawsuit against Hurwitz was even authorized by the board and 17 months before, according to Mr. Kroener's testimony, Mr. Hurwitz ''indirectly'' raised the debt-for-nature swap with the FDIC through the Department of the Interior. Contrary to Mr. Kroener's representations to the Task Force, the FDIC legal staff was deeply ensconced in the redwoods debt-for-nature scheme well before Mr. Hurwitz raised redwoods with bank regulators.

The contents of the meeting shows irresponsible ends-driven government, from almost any perspective. Mr. Smith was not even talking about investigating and bringing valid legitimate bank claims. He was only talking about ''convincing'' Mr. Hurwitz that ''we have claims.'' This may even be unethical, because he implied that an invalid, unviable claim (the net worth maintenance claim) may be used as leverage to get redwoods from Mr. Hurwitz.

The FDIC is supposed to be an ''Independent agency,'' that is, it is supposed to insulate itself from political pressure and disputes. FDIC legal staff suddenly injected themselves into a political issue of emerging national prominence (redwood trees and debt-for-nature using banking claims), an issue beyond the normalcy of banking recovery actions. The meeting notes show that the FDIC attorneys engaged to promote the issue of a debt-for nature swap, and that the design was to merely ''convince the other side'' that the FDIC had claims worth $400 million that the agency knew it did not have. This is a sad, sad statement from an ''independent'' government agency, and it is only the early part of the slide for the FDIC.

Buttress what the FDIC lawyers said in the February 1994 meeting to Rep. Hamburg about trees and claims, against what Mr. Kroener and the other bank regulators told the Task Force in sworn testimony:

Mr. POMBO. Ms. Seidman and Ms. Tanoue, the FDIC and the OTS have repeatedly said to the public and the Congress, including this morning, that what the agency wanted from USAT claims was cash, is that correct?

Ms. SEIDMAN. Yes. Our restitution claim is brought for cash. As to any further discussions both relating to the decision to bring the claim that way and subsequent settlement discussions, none of which I took part in, I would defer to Ms. Buck.

Ms. TANOUE. I will also say that the FDIC considered all options to settle claims, at the encouragement of Mr. Hurwitz and his representative agency,[22] looked at trees, but the preference has always been for cash. . . .

At a minimum, Ms. Tanoue is misleading. Eighteen months prior to even having a claim to settle or having a claim authorized or having a claim filed, her agency's top lawyers were sitting in a Congressional office talking about ''convincing the other side'' that ''we have claims worth $400 million'' and getting a ''hook'' into a holding company that owns redwoods.

Mr. POMBO. At what point did you start looking at the other options, and you mention trees?

Ms. TANOUE. Much of this discussion occurred before my tenure. I turn to Mr. Kroener for elaboration on that point.

Mr. KROENER. . . . We were first offered trees or natural resources assets by representatives of Mr. Hurwitz indirectly in July of 1995.[23]

There had obviously been a huge public debate going on regarding this forest. We were not part of that[24] but we had lots of communications, others got lots of communications, . . . [and our chairman and general counsel] had responded to inquiries of Congress that were mindful that trees could come into play in our claims, but our claims didn't involve trees; they involved cash. (Hearing Transcript, pages 63–65)

Obviously their claims involved cash, because by law their mission is to replenish the insurance fund with money. Mr. Kroener was wrong when he said their claims did not involve trees, and trees certainly came into play as evidenced by the February 1994 the Rep. Hamburg-Smith-Thomas meeting. Indeed trees were the motivating force that led the FDIC to promote net worth maintenance claims to the OTS.

The clear implication of Ms. Tanoue's answer is that Mr. Hurwitz was the first to bring the redwoods into a possible settlement, but we know that FDIC lawyers were scheming in February 1994 with a Member of Congress to get a banking claim ''hook'' into the redwoods holding company owned by Mr. Hurwitz. Mr. Hurwitz was not the one who first brought the redwoods into banking claim issue-the environmental groups, FDIC lawyers, and certain Members of Congress had already done so by that point.

Perhaps W. Kroener did not read the meeting notes that he provided to the Task Force

about the February 1994 meeting between FDIC lawyers and Rep. Hamburg when he told the Task Force that FDIC claims did not involve trees until July 1995 when Mr. Hurwitz raised the redwoods to the FDIC indirectly through the Department of the Interior. The claims did involve trees—convincing the ''other side'' that there is a $400 million claim and they may ''want to settle,'' which gets the FDIC into the Hurwitz holding company that has the redwood trees.

As to Ms. Seidman, she stated a fact—that the OTS claim was for cash, which is technically all that it could be for. What she omits is that the FDIC had imparted the redwoods debt-for-nature agenda directly to the OTS on the heels of the February 3, 1994, meeting between FDIC and Rep. Hamburg—and the FDIC did so because its claims were too weak and too small to provide enough leverage for the redwoods (See, Record 33, Record 35 and accompanying discussion infra).

It took less than 24 hours following the FDIC-Rep. Hamburg meeting for the FDIC Deputy General Counsel, Jack Smith, to write to Carolyn Lieberman (now Carolyn Buck), the top lawyer at OTS. (Record 6). The letter (1) forwarded legal analysis of the net worth maintenance claim against the Hurwitz's holding company that owned the redwoods; (2) admitted that FDIC had no net worth maintenance claim; (3) prodded OTS to review whether it could administratively bring a net worth maintenance claim; and (4) in an incredible admission of purpose and intent, the letter notified OTS about the redwoods debt-for-nature scheme. The last paragraph of the one page letter reads:

You should be aware that this case has attracted public attention because of the involvement of Charles Hurwitz, and environmental groups have suggested that possible claims against Mr. Hurwitz should be traded for 44,000 acres of North West timber land owned by Pacific Lumber, a subsidiary of Maxxam. Chairman Gonzales has inquired about the matter and we have advised him we would make a decision by this May. After you have reviewed these papers, please call me or Pat Bak (736–0664) to discuss the next step and to arrange coordination with our professional liability claims. (Record 6)

Clearly, this action, immediately after the FDIC strategy meeting with Rep. Hamburg constitutes direct engagement of the FDIC to promote the claim that would become the leverage for the redwood debt-for-nature scheme.

It is worth stressing that the FDIC that wrote this letter on the heels of the Rep. Hamburg meeting is the same FDIC that testified to the Task Force that their litigation did not have anything to do with trees. How could it not when the FDIC told the OTS that it promised Rep. Gonzalez that the agency ''would advise him of its decision about an environmental group suggestion ''that possible claims against Mr. Hurwitz should be traded for 44,000 acres of North West timber land owned by Pacific Lumber.

This is debt for nature. It was real in February 1994. It ultimately overrode the fact that the FDIC knew its claim was weak and it led almost immediately to the FDIC hiring the OTS to promote the net worth maintenance claim against Mr. Hurwitz.

This letter was sent three months prior to FDIC hiring OTS to pursue the net worth maintenance claim that FDIC knew it did not have.[25] Importantly, it was sent immediately after the Rep. Hamburg meeting—the meeting that tied Mr. Hurwitz's holding company's redwood trees to the USAT net worth maintenance claim against Mr. Hurwitz. The FDIC prompted and then paid the OTS to pursue this claim by supposedly using its independent statutory authority.[26]

In effect, the FDIC scheme beginning at least in February 1994, polluted the OTS action. What was a ''hook'' into the ''holding company'' that owned the redwoods for FDIC, was a ''hook'' into the holding company for the OTS. In fact, without the FDIC money (which by 1995 totaled $529,452 and by 2000 totaled $3,002,825), OTS's five lawyers and six paralegals advancing the claims against Mr. Hurwitz would have been unfunded—and probably not advanced the claim. And without the net worth maintenance claim—by far the largest claim—there would be no hook into Mr. Hurwitz, therefore no hook into his redwoods.

It is helpful to understand why Mr. Smith told Rep. Hamburg that it is ''very difficult to do a swap for trees.'' It was very difficult for two reasons. First, the claims would not ordinarily be brought because they would fail on the merits, so it would be difficult to exchange a claim that would not have been ordinarily brought. The bank regulators manual explains their policies from 1980 through 1994 for bringing claims as follows:

No claim is pursued by the FDIC unless it meets both requirements of a two-part test. First, the claim must be sound on its merits, and the receiver must be more than likely to succeed in any litigation necessary to collect on the claim. Second, it must be probable that any necessary litigation will be cost-effective, considering liability insurance coverage and personal assets held by defendants. (Managing the Crisis: The FDIC and the RTC Experience 1980–94, published by FDIC, August 1998, page 266)

Second, the claims would be for restitution, and the FDIC could not accept trees in settlement. The FDIC even admits that they would need ''modest'' legislation to accept trees, which is an admission that their purpose in seeking redwoods is indeed unauthorized.

However, it was political pressure, such as that applied by environmental groups in 1993 and Rep. Hamburg beginning in 1994, that led the willing FDIC (and ultimately its agent, the OTS, after FDIC began paying OTS in May 1994) into ignoiing the mission of recovering money on cost effective banking claims.

Instead the FDIC adopted unauthorized missions of providing leverage through lawsuits that are unsound on the merits and would ''convince'' (the word used by Mr. Smith) Mr. Hurwitz that FDIC had a claim of ''$400 million'' so that they could get a ''hook into the holding company'' and settle the claim for redwood trees. This was exercise of leverage pure and simple.[27]

February 2 through 4, 1994, were important redwoods debt-for-nature days for the FDIC's legal team. There was the FDIC memo admitting that it had no net worth maintenance claim. Then there was the meeting with Rep. Hamburg about the redwoods scheme. Then there was an odd, but revealing e-mail sent by FDIC's congressional liaison, Eric Spittler, to Jack Smith on February 4, 1994, about a conversation he had with Smith on February 3, 1994, the same day as the Rep. Hamburg meeting. The message was about the selection of an outside law firm to act as counsel on the USAT matter:

Jack, I thought about over conversation yesterday. My advice from a political perspective is that the ''C'' firm [Cravath] is still politically risky. We would catch less political heat for another firm, perhaps one with some environmental connections. Otherwise, they might not criticize the deal but they might argue that the firm [Cravath] already got $ 100 million and we should spread it around more. (emphasis supplied) (Document I)

Indeed, ''environmental connections'' were a factor in selection of the outside counsel for the USAT matter. A February 14, 1994, memo about ''Retention of Outside Counsel'' for the USAT matter (Record 15) from various FDIC lawyers to Douglas Jones, FDIC's acting General Counsel, trumpets the ability of the firm ultimately selected, Hopkins & Sutter, to handle a redwood debt-for-nature settlement:

The firm [Hopkins & Sutter] has a proven record handling high profile litigation on behalf of the [FDIC] and, drawing on its extensive representation of the lumber industry, will be able to cover all aspects of any potentially unique debt for redwoods settlement arrangements. (Record 15, page 8)

The FDIC was clearly planning—even in February 1994 with the selection of an outside counsel—for a redwoods debt-for-nature swap as part of a settlement! This was before they even knew if their potential claims were really claims, and before the FDIC Board had authorized filing of any claims. From the FDIC's perspective, an outside counsel law firm with ''environmental connections'' that can ''cover all aspects of any potentially unique debt for redwoods settlement'' is the only choice. (Record 15)

So in February 1994, the FDIC—which denies to this day its litigation against Mr. Hurwitz has any linkage to a redwoods debt-for-nature scheme—selected the outside counsel for the USAT matter because it could handle a debt for redwoods settlement. This firm was an ideal choice for a bank regulator with an agenda to get a ''hook'' into a holding company that has redwood tree assets that might be traded for bank claims—if they can ''convince'' the other side that they have valid claims. Mr. Hurwitz's redwood trees were targeted a year and a half before the bank claims were authorized to be filed and seventeen months before he supposedly raised the issue of redwoods ''first'' with the FDIC.

The FDIC, its lawyers and acting chairman knew of the linkage between bank claims and redwoods, as did their outside counsel, Hopkins & Sutter, which even facilitated numerous contacts, information exchanges, strategy sessions, and meetings during the remainder of 1994 between the bank regulators and environmentalist proponents of a Hurwitz debt-for-nature redwoods swap.

But Ms. Tanoue and Mr. Kroener testified that redwoods had nothing got do with the litigation, hardly an accurate proposition in light of the fact that the FDIC's outside counsel was selected because of their environmental connections and ability to handle a ''unique debt for redwoods settlement.'' (Record 15)

Indeed, Hopkins & Sutter's ''environmental connections'' paid off—to the environmentalists advocating a redwoods debt-for-nature scheme. F. Thomas Hecht, the lead partner at Hopkins and Sutter on the USAT matter, in a memo copied to FDIC attorney's summarized the intense lobbying effort [beginning in about March 1994] by certain environmental activists led by the Rose Foundation of Oakland, California[, whose] principal concern has been to conserve an area of unprotected old-growth redwoods in northern California known as the Headwaters Forest. (Document N, page 1) The memo (Document N, page 3–4) details the following contacts:

On June, 17, 1994, Thomas Hecht met with Jill Ratner of the Rose Foundation in San Francisco for an initial meeting at which Ms. Ratner outlined her groups' concerns.

On October 4, 1994, Hecht, Jeffrey Williams, Robert DeHenzel and the Rose Foundation and its lawyer participated in a teleconference at which the claims prepared by the Rose Foundation were presented in more detail.

On January 20, 1995, DeHenzel and Hecht met with Julia Levin of the Natural Heritage Foundation (''NHF''), a group closely associated with the Rose Foundation. The NHF is conducting much of the lobbying effort on behalf of the Rose Foundation and other environmental activists on this issue.

In addition to these more formal encounters, Williams, DeHenzel and Hecht have each been contacted repeatedly by the Rose Foundation and its attorneys to explore the theories in more depth and to urge the FDIC to take action. In each of these meetings and in subsequent telephone conversations and correspondence, the Rose Foundation and its allies have urged three general approaches to the problem including: (a) the imposition of a constructive trust over Pacific Lumber' redwoods, (b) the seizure of redwoods using an unjust enrichment theory, and (c) obtaining rights to the forest or, at a minimum, an environmental easement, as part of a negotiated settlement. They have also urged Congressional action, filed a Qui Tam proceeding in the Northern District of California and threatened the FDIC with proceedings under the Endangered Species Act. (Document N, page 3–4)

This is just a sampling of the many instances were the bank regulators own notes and memos show integration between what were still possible bank claims and the redwoods. All of these occurred beginning 18 months before the USAT claims against Mr. Hurwitz were authorized or filed. Record 8 contains several examples of outside contacts between bank regulators and environmental groups about different mechanisms to leverage redwoods using potential banking claims.

1995 The Federal Government Scheme Is Defined—''High Profile Damages Case'' In Which Redwoods Are ''A Bargaining Chip''

The relationship between the possible banking claims and the redwoods is not just implied by the number of meetings or the extensive evaluations by bank regulators and their lawyers throughout 1994, it was directly stated in the March 1995 memo by F. Thomas Hecht, FDIC's outside counsel:

As their theories have become subject to criticisms, certain counsel for the Rose Foundation have shifted (at least in part) from arguments compelling the seizure of the redwoods to urging the development of an aggressive and high profile damages case in which redwoods become a bargaining chip in negotiating a resolution. This, indeed, may be the best option available to the environmental groups; its greatest strength is that it does not depend on difficult seizure theories. This approach would require that both the FDIC and OTS undertake to make the redwoods part of any settlement package.[28] (footnote not in original) (Document N, page 8)

Thus, the FDIC's outside counsel explained and evaluated the best course of action for the environmental groups (never mind the FDIC or the government). The fact is that a high profile damage claim where redwoods were leveraged from Mr. Hurwitz—the environmentalist's best option—is exactly how the FDIC proceeded, particularly after the DOI and the White House engaged with the bank regulators. They swallowed the redwoods debt-for-nature scheme—hook, line, and sinker (as the old saying goes)—beginning in 1994 and continuing into 1995, even though their own analysis showed that their potential claims would not stand.

In spite of these facts, the FDIC has consistently insisted since late 1993 that ''there is no direct relationship between USAT and the Headwaters Forest currently owned by Pacific Lumber Company . . . [however], if such a swap became an option, the FDIC would consider it as one alternative . . .'' (Record 28). Indeed, this is exactly what the banking regulators have told the Committee in writing: they have always been open to the idea, but they prefer cash. The documentation outlined above shows that the banking regulators actively pursued a redwoods debt-for-nature agenda using their claims as urged by certain Members of Congress and by environmental groups. However, by this point, the Department of the Interior and the White House had yet to engage. That changed in early 1995.

In February 1995, a host of environmentalists proposed an acquisition of the Headwaters redwood trees to President Clinton, and Leon Panetta (Chief of Staff) wrote back to them saying that budget constraints would not permit outright acquisition (Record 16A). He suggested that they push a debt-for-nature swap or land exchange instead. That action served to lower expectations for appropriated funds for the redwoods, and focused the proponents on continuing to push the redwoods debt-for-nature scheme.

By April 3, 1995, FDIC lawyers were openly attempting to leverage Mr. Hurwitz into settling claims that were still yet to be filed for redwood trees. The redwoods debt-for-nature scheme was alive and active at the FDIC as indicated by the words in this e mail to Mr. Jack Smith from Mr. Bob DeHenzel:

Jack:

Just a note regarding our brief discussion on Charles Hurwitz and exploring creative options that may induce a settlement involving the sequoia redwoods in the FDIC/OTS case: . . . (Record 9)

In these words the FDIC's attorneys were indeed leveraging redwoods by using their banking claims—at least three months before FDIC says that Mr. Hurwitz raised the redwood-debt-for nature idea through his ''representative agency'' (presumably the DOI), attorneys, four months before the FDIC board authorized the suit against Mr. Hurwitz, and about five months before the FDIC maintains Mr. Hurwitz raised the redwoods swap idea directly with the bank regulators.

Thus, well before the notion of the redwoods debt-for-nature deal was introduced to the FDIC by Mr. Hurwitz (as the bank regulators religiously maintain) the bank regulators were indeed targeting Mr. Hurwitz's redwoods and using their potential claims as leverage to ''induce'' a settlement. The repeated statements and the sworn testimony of Ms. Seidman, Ms. Tanoue, and Mr. Kroener to the Task Force (that Mr. Hurwitz introduced the redwoods into settlement discussions) is yet another example that directly contradicts what the FDIC lawyers were doing as evidenced by their own writing.

The notes of FDIC attorneys about what they were seeking and why the FDIC and the OTS were cooperating also contradict the testimony of the bank regulators when they say that redwoods had noting to do with the litigation against Mr. Hurwitz. Sometime in mid-1994 (but before July 20, 1994)[29], FDIC wished to continue studying their claim and ''a possible capital maintenance claim by OTS against Maxxam.'' In illuminating candor, the handwritten memo articulates why the FDIC lawyers wanted to hire the OTS and double team Mr. Hurwitz:

Why?

(1) Tactically, combining FDIC & OTS' claims—if they all stand scrutiny—is more likely to produce a large recovery/the trees than is a piecemeal approach (Record 10, bates number JT 000145)

So, the senior FDIC lawyer, Mr. John Thomas, contemporaneously wrote that their strategy with OTS would be more likely to produce ''the trees.'' But their Chairman, their General Counsel, and the OTS Director repeatedly told the commiittee that the litigation had nothing to do with trees. Were the FDIC and OTS management and their board members so ill-informed about what their attorneys were seeking to achieve? ''The trees'' is not cash, period.

The other very alarming notion is how integral OTS is to the strategy to ''produce'' ''the trees,'' according to the FDIC attorneys. The strategy to ''combine'' FDIC's weak claims with possible OTS claims on net worth maintenance further explains the February 4, 1994, letter from FDIC's lawyers to OTS's lawyers (Record 6).

It transmitted the net worth maintenance claim to the OTS and introduced the notion that the FDIC was considering a redwoods debt-for-nature swap scheme. The FDIC told OTS that they were about to report to Rep. Gonzalez about the potential for the swap. The implication was that viable claims against Mr. Hurwitz (brought directly by the FDIC or indirectly through the OTS) would allow the FDIC to report back to Mr. Gonzalez that they could help get ''the trees'' because a swap would be more viable. Without the OTS, the FDIC would not have enough leverage to produce ''the trees,'' because by its own analysis, the FDIC claims were losers.

The repeated intra-government lobbying of FDIC and OTS also pushed the bank regulators into the political redwoods debt-for-nature acquisition scheme. This intragovernment lobbying began indirectly by at least May 19, 1995,[30] and is first evidenced by notes (Record 11) from a phone call by Ms. Jill Ratner, who runs the Rose Foundation, to Mr. Robert DeHenzel. (Record 11 is a copy of Mr. DeHenzel's notes from that conversation.)

The notes (Record 11) indicate that Ms. Ratner told Mr. DeHenzel about the Department of the Interior (DOI) players who are ''very interested in debt-for-nature swap'': Mr. Alan McReynolds, a Special Assistant to the Secretary of the DOI, Mr. Jeff Webb, with DOI congressional relations, Mr. George Frampton, the Assistant Secretary for Fish Wildlife, and Parks at DOI, and Mr. Jay Ziegler, an assistant to Mr. Frampton were all discussed as redwoods debt-for-nature advocates. And Record 11A illustrates that the Rose Foundation had done substantial work regarding various mechanisms to transfer the redwoods to the federal government.

The notes indicate that Mr. McReynolds had flown over Headwaters during the week of May 8, 1995,[31] with Ms. Ratner a primary advocate of various plans to acquire the Headwaters Forest. This was the first indication that DOI was engaging on the redwoods debt-for-nature scheme and probably Mr. McReynolds' first exposure to the concept that bank claims could provide the leverage for the redwoods scheme. There is no mention in the notes that Mr. Hurwitz requested DOI to raise the issue of a redwoods swap or look into it:

Interior is . . . discussions will continue. Webb & Zeigler will continue doing prelim[inary] work to explore whether debt-for-nature would work. (Record 11)

By the time that the DOI engaged in May 1995, the FDIC lawyers were well aware of the ''''debt-for-nature' transaction that various environmental groups have been advocating to resolve the claims involving Hurwitz and USAT.'' (Record 12) They were also apparently intimidated by the environmentalists as shown by the two page FDIC memo about a redwoods debt-for-nature letter to FDIC referencing the Oklahoma City bombing and a ''call to defuse this situation'' by doing a swap (Record 12). The following

excerpt of the memo shows detailed knowledge about the debt-for-nature scheme and a perceived threat of violence related to environmentalist who had pushed the FDIC into it:

As you know, the above-referenced investigation has resulted in attracting the attention of organizations and individuals that have interests in environmental preservation. This has arisen as a result of Charles Hurwitz's acquisition (through affiliates) of Pacific Lumber, a logging company in Humbolt County California, that owns the last stands of old growth, virgin redwoods.[32] It has been widely reported that the company has been harvesting the virgin redwoods in a desperate attempt to raise cash to pay its and its holding company's Maxxam, Inc.'s, substantial debt obligations.

The environmentalist's issues are centered on preserving the old growth redwoods through a mechanism of persuading Hurwitz to settle the government's claims involving losses sustained on the USAT failure by, in part, transferring the redwood stands to the FDIC or other federal agency responsible for managing such forest lands. FDIC has received thousands of letters urging FDIC to pursue such a transaction.

The environmental movement, like many others, is not homogeneous and contains extreme elements that that have resorted to civil disobedience and even criminal conduct to further their goals. As a result of the recent tragedy in Oklahoma City, everyone appears more sensitive to the possibility that people can and do resort to desperate, depraved criminal acts. Accordingly we take any references to such conduct, even ones that appear innocent, more seriously. (Record 12)

This excerpt shows that FDIC attorneys were (1) probably somewhat intimidated and (2) already well-versed in the debt-for-nature scheme when Ms. Ratner told Mr. DeHenzel who the DOI players supporting the redwoods debt-for-nature scheme were. The FDIC was keen to the motivations and methods of those who fed the scheme to them. Perhaps the intimate knowledge by the FDIC of the interests and desires of the environmental community came through the numerous pieces of correspondence and legal memos from the Rose Foundation to the FDIC through Hopkins & Sutter.[33] The material showing the constant pummeling of FDIC by these advocates (and the willing acceptance by the FDIC and its outside law firm with ''environmental connections'') is too voluminous to reproduce. It is contained in the Committee's files.

With the FDIC primed, the Department of the Interior directly engaged with the FDIC. The first known direct contact was a 5:00 p.m. call on July 17, 1995, from Alan McReynolds to Robert DeHenzel.[34] The notes taken by DeHenzel (Record 16) indicate that McReynolds, a special assistant to the Secretary of the Interior, asked about the ''status of our [FDIC] potential claims and how OTS is organized, etc.'' He needed ''someone to describe our [FDIC] claims and FDIC /OTS roles.'' He said that the DOI is receiving ''calls almost daily from members of Congress and private citizens.''[35] McReynolds pressed for a meeting that week (the week of July 17, 1995) because of his vacation and travel schedule. At that juncture, DeHenzel's notes say that McReynolds had not spoken to Jack Smith yet.

The following day, DeHenzel consulted about the McReynolds inquiry with ''JVT,'' John V. Thomas, the same FDIC lawyer who attended the Rep. Hamburg meeting in November 1993. Mr. Thomas told him to talk to Jack Smith and Alice Goodman. The notes say that ''JVT's reaction—Smith & Goodman should be there with us'' (Record 16) for the meeting with McReynolds.

Then the unexpected occurred. On July 20, 1995, Mr. Hurwitz refused to extend the statute of limitations tolling agreement with the FDIC (Record 17, See, footnote 1 on page 2). He had last done so on March 27, 1995, and that extension was to expire on July 31, 1995. As a result, any lawsuit by FDIC regarding USAT claims against Mr. Hurwitz were required to be filed by August 2, 1995, just thirteen days later. It was just three days after Mr. McReynolds contacted the FDIC for a meeting about the potential FDIC and OTS actions against Mr. Hurwitz that the FDIC was told that Mr. Hurwitz would not extend the tolling agreement.

The FDIC was unprepared for this action. They had enjoyed six years and eight months of discovery during which they were lobbied by outside groups and Members of Congress on the completely unrelated issue of pursuing the redwoods debt-for-nature swap. However, the agency had failed to do its job and cobble together enough evidence supporting a banking claim involving USAT and Mr. Hurwitz. They were not ready to file a complaint or drop the case on their own volition, even though Mr. Hurwitz provided voluminous records to the agency in the discovery process, records that defined the facts and illuminated issues raised by the FDIC.

As a result, the FDIC was facing two issues—the request for a meeting with the Office of the Secretary of the DOI and the need to address the fact that they did not have the USAT case prepared after more than six years of investigation.

They addressed these issues internally in a July 20, 1995, meeting between ''Mr. Jack Smith, JVT [John V. Thomas, FDIC lawyer], MA [Maryland Anderson, FDIC lawyer], JW [Jeff Williams, FDIC lawyer], and Robert DeHenzel.'' (Record 18)

It is clear from this meeting that the FDIC lawyers were not anxious to recommend a lawsuit against Hurwitz. They did not have a case, because it did not meet their internal standards. Instead they prefer-red to hinge their action on whether OTS brought the administrative action, the action that they prompted and paid OTS to bring against Hurwitz. This is an odd trigger for an agency that does admits it does not have a case, disavows it seeks redwoods, and is only interested in receiving ''cash.''

Thus, the FDIC lawyers'' behavior is somewhat schizophrenic—on the one hand they know their internal policies will not let them bring a suit, but on the other hand they want to sue Mr. Hurwitz (and not other potential defendants). They then begin constructing the justification for doing so around the notion that the potential claims against Mr. Hurwitz are somehow special-not ''ordinary.'' They also apparently talk of telling Mr. McReynolds what they will do—evidence of further improper coordination with the DOI outside of normal FDIC operating parameters. Mr. Thomas' notes from the internal FDIC meeting (Record 18) explain:

Re: McReynolds-Kosmetsky-Hurwitz-Tolling

Jack [Smith]—we will not go forward if OTS files a case—if OTS does not file suit, we still have to decide our case on the merits before tolling expires

*Memo to the GC [General Counsel] to Chairman—update status of case & recommends that we let Kozmetsky out.

If suit against Hurwitz—we sue only him and not others

Find out if Hurwitz will toll

Write a memo on case status to GC 10 page memo should do it! continue tolling sue or let them go

If ordinary case, we do not believe there is a 50% chance we will prevail therefore, we cannot recommend a lawsuit.

McReyonlds-handle same as the Hill presentation (Record 18)

Clearly, the thinking coming out of the July 20, 1995, meeting was that the FDIC lawyers were not ready to make a recommendation on the merits of the case. Continued tolling was not an option because Mr. Hurwitz refused to sign a tolling extension, so the options ''sue or let them go'' were the only viable options. If it were an ordinary case the preference at that point would be to close the case out—that is let them go.

FDIC lawyer, Mr. John Thomas' later notes outlining some points for that memo to the General Counsel tell us why this was not the ''ordinary'' case:

''[G]iven (a) visibility—tree people, Congress & press . . . we thought you—B[oar]d—should be advised of what we intend to do—and why—before it is too late.'' (Record. 22)

What Mr. Thomas was saying is that the staff intends to close out the case, and if the FDIC board wants to do otherwise before the case is closed (administratively by the staff or by virtue of the statute of limitations running), then the Board must intercede.

Importantly, the FDIC lawyers deviated from ordinary operating procedures because of the intense lobbying campaign for the redwoods debt-for-nature swap. Clearly, the intense lobbying effort by the environmental groups, by their outside counsel, by the DOI, by the White House, and by other federal entities was effective! At that point the bank regulators bought the redwoods scheme, but were unprepared then to totally disregard there what they knew they should do under their rules and guidelines, so the staff punted the issue to the board.

The FDIC had already injected itself into a political issue. Their dilemma was summed up by Mr. Thomas in notes preparing for a discussion on the USAT claims with the board apparently scribed a few days later:

Dilemma (why they [the FDIC Board] get paid the big bucks)—take:

Hit for dismissed suit

Hit for walking based on staff analysis of 70% loss of most/all on S of L [statute of limitations]

(Record 23)

The action by the FDIC of treating this case differently than the ''ordinary'' case and the concerted manipulation of hiring the OTS to pursue parallel claims to be used as leverage sends the strong message: if someone wants to influence bank regulators on an entirely collateral issue, and politically manipulate the bank regulators, they can successfully do it.

All that must be done to use the bank regulators to achieve a collateral issue is to pursue two year public relations campaign aimed at them, swamp the bank regulators with cards and letters about the collateral issue, write and submit various legal briefs for them that link the collateral issue, meet with the bank regulators about the collateral issue, organize congressional letters advocating the collateral issue, hold secret meetings with Members of Congress about the collateral issue, hold ''protest'' rallies outside of their meetings, and do whatever else it takes so that at the end of the day, bank regulators do not follow ordinary procedures.

Indeed, the redwoods debt-for-nature swap became linked to USAT and Mr. Hurwitz just as the environmental groups wished. This was not the ordinary case—it was going to the FDIC Board even though the FDIC admitted their case had a 70 percent chance of being dismissed because of the statute of limitations, and was more likely than not of falling on the merits if they were reached.

Apparently, the FDIC legal staff was prepared to tell McReynolds and ''the Hill''

[Congress] the same thing—their course of action described in the July 20, 1995, meeting notes (Record 18). This modified procedure still left the door open for the board to act against staff recommendations and authorize the suit anyway—something that may not have been ideal from Mr. McReynolds perspective, but would still leave open the possibility of the leverage that DOI desired against Mr. Hurwitz.

Then something else changed on July 21, 1995, which was the day following the internal FDIC meeting on their potential claims against Mr. Hurwitz. The change caused the entire approach of the FDIC lawyers to evolve again. What changed was not any new information about the facts of the potential claims against Mr. Hurwitz related to USAT. What changed was not any favorable development in law that strengthened their potential claims against Mr. Hurwitz related to USAT. What changed was not any analysis about the nature or strength of the potential claims against Mr. Hurwitz. All of these things remained the same.

What changed was the realization by the FDIC lawyers, as communicated by a senior DOI official, that (1) the Clinton Administration and the DOI, had adopted and embraced the redwoods debt-for-nature scheme and they wanted the scheme to be successful, and (2) the FDIC's potential banking claims were critical to pulling off that redwoods debt-for-nature scheme. The potential banking claims—the same claims that the FDIC lawyers would have dropped using ''delegated authority''—were the leverage that were critical to making the redwoods debt-for-nature scheme work.

That realization occurred when the FDIC lawyers met with Mr. McReynolds on Friday, July 21, 1995, at 11:00 a.m. (Record 19), just as he had requested on Monday, July 17, 1995. Meeting notes indicate that background about the redwoods and endangered species issues associated with the Mr. Hurwitz's redwoods[36] were initially discussed (Record 20). Other background about Governor Wilson's task force and the willingness of California to participate in the deal were discussed, as were Mr. Hurwitz's valuations of the property (Record 20). Apparently, McReynolds laid out some of the basics about the redwood acreage. He was familiar with the issue from first hand experience because he had flown over the redwoods with Jill Ratner during the week of May 8, 1995 (See, Record 11):

H[urwitz] values 8K [acres] at $500 m. Interior wants to deal it down. H[urwitz] really wants $200m total. Calif. Deleg[ation] is really putting pressure on. Dallas/Ft. Worth—Base closure[37]

The FDIC also told McReynolds about the meeting that FDIC lawyers had set for the following Wednesday, July 26, 1995, with the OTS to discuss the USAT matter. They told Mr. McReynolds about the fact that they were doing the memo to the Chairman (the 10 page memo they concluded they needed in their July 20, 1995, meeting amongst the FDIC lawyers, See Record 18). The entry regarding this in Record 20 is reproduced below:

Wed [July 26] 10:30 mtg w/OTS. Memo for Chairman. (Record 20)

Eric Spittler's notes from the July 21, 1995, meeting add helpful details, and they are reproduced below:

$400,000 expenses on OTS[38]

Have not decided whether to bring case—won't decide for months.[39]

Alan McReynolds—Adm[instration] want to do deal

Gov. Wilson w/DOI had task force of 6 groups

Told to find a way to make it happen

CA will trade $100m in CA [California] timber

Adm[instration] might trade mil[itary] base[40]

Had call from atty. Appraisal on prop[erty] for $500m. Said they want to make a deal.[41] Don't know how much credence we have from them about a claim. At same time telling them to get rid of claim. He can't cut them down.

If we drop suit, will undercut everything. (emphasis supplied)

(Record 21)

So, the FDIC knew—according to the meeting notes—that if the FDIC dropped the suit by letting the statute of limitations run, ''it will undercut everything'' related to the redwoods scheme that was just discussed with McReynolds. In other words, letting the statute of limitations expire—the ''ordinary'' procedure and recommendation of the FDIC lawyers at the time—meant the leverage for the redwoods debt-for-nature deal would evaporate, as would the scheme to get Hurwitz's redwoods. Thus, the notes confirm a redwoods debt-for-nature scheme and that FDIC did not really know whether Mr. Hurwitz believed that the FDIC had a valid claim—further evidence of the fact that the claims were indeed weak substantively and procedurally.

In this context—where the FDIC knew its claims (and the claims it was paying OTS to pursue) were the essential leverage for the redwoods—the FDIC lawyers began drafting the memo. Clearly, the agency was struggling with the fact that dropping the claims was inconsistent with what the DOI and the Administration needed to accomplish the redwoods debt-for-nature swap.

The handwritten outline of Mr. John Thomas (Record 22) reviewed the major points in the contemplated for the memo to the Chairman. The outline reiterated the linkage between FDIC and OTS, and it reinforced staff conclusion that the USAT claims against Mr. Hurwitz should be left to expire otherwise the court would dismiss them. Mr. John Thomas' outline clearly show that if this case were ''ordinary'' it would be closed. Pressure for redwoods was the justification for informing the Board of the staff's intent to close out the case, and the option of pursuing the case for purposes of leverage was therefore left open. Mr. Thomas' outline, which appears to be composed for the 2:00 p.m. briefing of the Chairman on July 26, 1995, (Record 22) is partially reproduced below—

May recall briefed re OTS—[FDIC is] paying [the OTS]—some months ago.

OTS is making progress, but not ready. Thus, tolling again.

OTS staff hopes to have draft notice of charges to Hurwitz, et al. Aug-Sept.

(Apologize for short fuse)—we thought we would be able to put off a final decision until OTS acted. Hurwitz refused to toll.

Normal matter, we would close out under delegated authority w/o [without] bringing it to your Bd's attention.

However, given

(a) visibility-tree people, Congress & press

(b) [OMITTED] we thought you—Bd—should be advised of what we intend to do—and why—before it is too late.

* * * * *

Bottom line: likely to lose on S of L [statute of limitations]—let it go or have ct. dismiss it.

Continue to fund OTS

We'd also write Congress re what & why rather than awaiting reaction

Redwood Swap—

Interior/Calif.

Forest—[military] base—FDIC/OTS claim(?)

(Record 22)

This outline reinforces the approach and dilemma described by FDIC lawyers in their July 20, 1995, meeting. First, there was coordination with the OTS claims to get redwoods. That's because FDIC's possible claims were losers on substantive and procedural (statute of limitations) grounds. Second, ordinary procedures to close out the matter were circumvented due to ''visibility'' from the redwoods debt-for-nature campaign of the ''tree people'' (Earth First! and the Rose Foundation), Congress, and the press. Third, the Department of the Interior's ''Redwood Swap'' was taking shape and FDCI lawyers were beginning to coordinate with DOI staff.

All these factors combined to override the normal course of action, which was to close out the case. Instead, the Board would get the decision. All of this confirmed in John Thomas' own handwritten outline (Record 22), and all of it adding up to show that the redwoods debt-for-nature scheme had a real impact on the approach of the FDIC's lawyers. It had yet to skew the FDIC's final judgment based on early versions of the memo to the Chairman (Document X), but the final version dated July 27, 1995, would reflect skewed judgment.

The memo was drafted, and a version reflecting Mr. Thomas' notes and all of the prior internal staff discussions was produced and dated July 24, 1995. The drafts are Document X, and the final before the reversal is Document X, pages ES 0490-0495. It contains an unsigned signature block. Highlights of this memo are reproduced below and they tell exactly what the FDIC lawyers would advise the FDIC Board:

We had hoped to delay a final decision on this matter until after OTS decides whether to pursue clams against Hurwitz, et. al. However, we were advised on July 21, 1995 that Hurwitz would not extend our tolling agreement with him. Consequently, if suit were to be brought it would have to be filed by August 2, 1995. We are not recommending suit because there is a 70% probability that most or all the FDIC cases would be dismissed on statute of limitations grounds. Under the circumstances the staff would ordinarily close out the investigation under delegated authority. However (evidenced by numerous letters from Congressmen and environmental groups), we are advising the Board in advance of our action in case there is a contrary view. (Document X, page ES 0490)

And in discussing the merits, the memo again advised:

The effect of these recent adverse [court] decisions is that there is a very high probability that the FDIC's claims will not survive a motion to dismiss on statute of limitations grounds. We would also be at increased risks of dismissal on the merits. Because there is only a 30% chance that we can avoid dismissal on statute of limitations grounds, and because even if we survived a statute of limitations motion, victory on the merits (especially on the claims most likely to survive a statute of limitations motion) is uncertain given the state of the law in Texas, we do not recommend suit on the FDIC's potential claims. (Document X, page ES 0493–0494)

The memo then discusses the redwood forest matter, an interesting notion given the fact that the FDIC has consistently maintained that the redwoods were not at all connected to their litigation:

The decision not to sue Hurwitz and former directors and officers of USAT is likely to attract media coverage and criticism from environmental groups and member of Congress. Hurwitz has a reputation as a corporate raider, and his hostile takeover of Pacific Lumber attracted enormous publicity and litigation because of his harvesting of California redwoods. Environmental interests have received considerable publicity in the last two years, suggesting exchanging

our D&O [director and officer] claims for the redwood forest. On July 21, we met with representatives of the Department of the Interior, who informed us that they are negotiating with Hurwitz about the possibility of swapping various properties, plus the possibility the FDIC/OTS claim, for the redwood forest. They stated that the Administration is seriously interested in pursuing such a settlement.[42] This is feasible with perhaps some new modest legislative authority. . . . We plan to follow up on these discussions with the OTS and Department of [the] Interior in the coming weeks. . . . When the Hurwitz tolling agreement expires, we would recommend that we update those Congressmen who have inquired about our investigation and mike it clear that this does not end the matter of Hurwitz's liability for the failure of USAT because of the ongoing OTS investigtion. (Record X, pages ES 0493–0494).

It is helpful to understand that there were four major versions of this memo drafted and revised. The drafts of this memo are all typedated July 24, 1995, and they all reference discussions with the Department of the Interior. These drafts are Document X, which was made part of the Task Force hearing record by unanimous consent.

However, one version of this memo contains numerous handwritten changes, including a date that was changed from July 24, 1995, to July 27, 1995 (Document X, pages PLS 000192–000195). The changes amount to the complete and total reversal in approach to the USAT claims related to Mr. Hurwitz. The July 27, 1995, version is the text that was incorporated into the Authority to Sue (ATS) cover Memorandum[43] that was itself dated July 27, 1995. It, with the ATS memo (Document L, EM 00123–00135), went to the FDIC Board, and it recommended the suit against Mr. Hurwitz be brought.

The July 27 final version rolled into the ATS memo also discusses the ''Pacific Lumber-Redwood Forest Matter'' (Document L, page EM 00129). Therein, it notes the July 21, 1995, FDIC meeting with ''representatives of the Department of the Interior [McReynolds], who informed us [the FDIC] that they are negotiating with Hurwitz about the possibility of swapping various properties, plus the possibility of the FDIC/OTS claim, for the redwood forest.'' (Document L, page EM00129). The memo also says that the ''Administration is seriously interested in pursuing such a settlement.''

Note what the memo does not say. It does not say Mr. Hurwitz raised the issue of redwoods and linked them in any way to the banking claims. It says that the Administration is negotiating a swap of possible properties, plus the banking claims. When the bank regulators learned of this (probably from Mr. McReynolds on July 21, 1995), the bank regulators should have been very uncomfortable. They had already voluntarily injected themselves into a political dynamic with other government agencies—one of which had apparently taken their statutory obligation to recover cash by using claims that belonged to the FDIC and were not even brought yet. At this juncture Mr. Hurwitz had not raised the prospect of such a scheme with the FDIC.

The only other intervening event between the July 24, 1995, memo drafts and the July 27, 1995, reversal is a meeting on July 26, 1995, at 10:30 a.m. between the FDIC and OTS. Record 26 are the only set of meeting notes from that meeting,[44] and the notes reiterate the discussion between FDIC lawyers and Mr. McReynolds on July 21, 1995. This puts the OTS squarely inside the redwoods debt-for-nature scheme.

The notes are very helpful to show the degree of coordination between the FDIC and OTS about redwoods and the linkage between the potential claims and redwoods. They also show how the FDIC polluted the OTS decision-making with the same political dynamic it had been part of for more than a year. The FDIC staff summed up the situation and briefed OTS about all of the important redwoods developments related to Mr. Hurwitz:

J. Smith—

—Hurwitz won't sign tolling agreement with FDIC—need to file lawsuit by 8/12

—J Thomas-chances of success on stat. Limitations is 30% or less

—will continue discussions with Helfer

—Pressure from California congressional delegation to proceed

Dept. of Interior—Alan McReynolds

—Administration interested in resolving case & getting Redwoods[45]

—Pete Wilson has put together a multi-agency task group

—Calif would put up $ 100 MM of California timberland

—Hurwitz wants a military base between Dallas & Fort worth-Suitable for commercial development

—Hurwitz also wants our cases settled as part of the deal[46]

Two weeks ago-Hurwitz lawyer called Teri Gordon at home & told him he should not be turned off by the $500 MM appraisal

What is OTS'schedule? How comfortable is OTS w/ giving info to Interior?

(Record 26)

None of the records reviewed contains any banking law rationale for the reversal in the staff recommendation July 24, 1995, (which was to notify the board that they would close out the potential claim against Mr. Hurwitz by letting the statute of limitations run) and the July 27, 1995, approach (which recommended a lawsuit against Mr. Hurwitz). The only explanation for the reversal is the meeting with Mr. McReynolds where the DOI and Administration's desire for leverage was communicated and understood by the FDIC coupled with the meeting with OTS where bank regulators from both agencies discussed the Administration's desire for the redwoods debt-for-nature scheme to succeed. At this juncture, the thinking was that there would be no money for an appropriation for the Headwaters, so a swap of some sort was the only way to acquire the redwoods.

The FDIC board only saw the July 27, 1995, memo. In their meeting they discussed the redwoods scheme when they discussed bringing the action against Mr. Hurwits (Record 27). As part of his briefing, Mr. John Thomas elaborates on the redwood scheme to the FDIC board:

Mr. THOMAS. This is, of course, a very visible matter. It is visible for something having no direct relationship to this case, but having some indirect relationship. Mr. Hurwitz, through Maxxam, purchased Pacific Lumber. Pacific Lumber owns the largest stand of virgin redwoods in private hands in the world, the Headwaters. That has been the subject of considering—considerable environmental interest, including the picketing downstairs of a year or so ago. It has been the subject of Congressional inquiry and press inquiry. So we assume that whatever we do will be visible.

Interior, you should also be awar—aware, the Department of Interior is trying to put together a deal to the headlines [sic] [Headwaters] trade property and perhaps our claim. They had spoken—they spoke to staff a few days ago about that and staff of the FDIC has indicated that we would be interested in working with them to see whether something is possible. We believe that legislation would ultimately be required to achieve that. But again, if it's the Board's pleasure, we would at least try to find out what's happening and pursue that matter and make sure that nothing goes on we're not aware of—we're not part of. (Record 27, page 11–12)

Later, Chairman Helfer raised the issue of whether bringing suit enhances the prospect of settlement of non-banking issues, that is the redwoods:

Chairman HELFER. . . . does the FDIC's authorization to sue enhance the prospect—the prospects for a settlement on a variety of issues associated with the case?

Mr. THOMAS. It might have some marginal benefit, but I don't think it would make a large difference. I think the reality is that the FDIC and OTS staff have worked together, expect to continue to work together, and so, I don't think it would have a major impact. It might make some difference, but I think particularly any effort to resolve this with . . . a solution that involves the redwoods would be extremely difficult.[47] . . . (Record 27, page 16)

These exchanges in the FDIC board meeting about the redwoods are troubling simply because they occurred. They injected factors that had nothing whatsoever to do with the validity of banking claims against Mr. Hurwitz. The advice and recommendations on July 27, 1995, deviated so widely from the approach of staff that would have ordinarily taken to close the case administratively. They deviated even more from the approach they would have taken before the McReynolds meeting on July 21, 1995, where they came to understand that the Administration needed the leverage for the redwoods swap.

The deviation is likely a result of that meeting, coupled with the OTS meeting on July 26, 1995, where they coordinated on the claims they were paying the OTS to pursue and conspired about the need for leverage to get the redwood claims. The FDIC understood at that point that OTS's claims may not be brought for months (or perhaps at all) and they certainly knew that if ''we drop our suit, [it] will undercut everything.'' (Record 21)

The day following filing of the suit, FDIC lawyers sent a memo to their communications department reiterating the congressional and environmental interest due to the redwoods issue. (Record 28) The memo explained conspiracy with the Department of the Interior and how the department had been negotiating for the redwoods using the FDIC and OTS claims. The memo also indicated that it was the Administration that was ''seriously interested in pursuing such a settlement.'' (Record 28, page 2) In addition, as if the FDIC lawyers knew they were doing something wrong, the memo emphasized that ''All of our discussions with the DOI are strictly confidential.'' (Record 28, page 2)

Then the memo went on to suggest that the FDIC should not disclose these discussions or deviate from the prior public statement about redwoods. Basically that statement was that if a redwood ''swap became an option, the FDIC would consider it as one alternative and would conscientiously strive to resolve any pertinent issues.'' (Record 28, page 2)

The work on a redwoods swap by the FDIC and the Department of Interior then grew as indicated by the volume of notes from meetings where other federal entities were drawn into the scheme. There was an August 2, 1995, DOI Headwaters acquisition strategy paper drafted by Mr. McReynolds. It reports the FDIC and the OTS ''are amenable to [a debt for nature swap] if the Administration supports it.'' (Document DOI B). This is blatant evidence of just how political the FDIC's July 27, 1995, reversal was.

There was the August 15, 1995, meeting between DOI, FDIC (Smith), and OTS (Renaldi

and Stems) (Document DOI C, page 2) where it was reported that ''FDIC and OTS are wondering why DOI is not being more aggressive with Hurwitz and is permitting [Governor] Wilson's task force to take the lead'' (Document DOI C, page 2). This is a stunning indictment of the political motivation of the FDIC and OTS staff.

There was coordination with Congressional offices (Document DOI D).

There was endorsement from the Assistant Secretary of DOI of using the FDIC and yet to be filed OTS claims in exchange for the redwoods (Document DOI E).

There were multi-agency meetings that included the White House ONM and CEQ (Document DOI F and H)

The Vice President was lobbied by Jill Ratner for his support of the redwoods scheme as was the White House (Document DOI G), and bi-weekly conference calls were occurring between the FDIC, the OTS, and the DOI to coordinate on the redwoods scheme by September 1995.

There was the October 1995, memo to the General Counsel of FDIC about a scheduled meeting that was to occur on October 20, 1995 with Vice President Gore about the FDIC and OTS claims and their integral linkage to leveraging redwoods. Mr. Kroener, testified that the meeting never occurred, but the information in the memo is nonetheless illuminating, and it contradicts FDIC's statements that they were not after redwood trees.

The memo verifies that Mr. Hurwitz was not interested and had not raised the notion of a redwoods swap for FDIC or OTS claims. The memo says OTS met with Hurwitz's lawyer and ''no interest in settlement has been expressed to OTS.'' (Record 33, page 2). The memo says that FDIC has had several meetings and discussions with Hurwitz counsel prior to the filing of the lawsuit. Hurwitz has never, however, indicated directly to the FDIC a desire to negotiate a settlement of the FDIC claims. (Record 33, page 2).

This puts to rest the notion that Mr. Hurwitz was or had been interested (or had raised) the notion of a redwoods swap for the OTS or FDIC claim up to that point.[48] Apparently, the FDIC relied on erroneous representations of Mr. McReynolds to the contrary.

Then, in an incredible self-indictment, the FDIC observes that it is ''inappropriate to include OTS'' in the meeting to discuss possible settlement with Hurwitz because the OTS claim was not approved for filing, and discussions may be perceived as ''an effort by the executive branch to influence OTS's independent evaluation of its investigation'' (Record 33, page 2). What exactly, then, did the FDIC think its February 1994 meeting with Rep. Hamburg would do to its independent judgment? What did the FDIC think repeated contacts with environmental groups since 1993 would do? What did the FDIC think that its meetings with Mr. McReynolds right before their staff recommendation changed in July 1995 would do? Why did the FDIC and the OTS meet and have phone briefings with DOI in July, August, September 1996. All of these contacts were just as inappropriate then as they were when FDIC staff wrote the briefing memo for Vice President Gore's meeting. Did the FDIC lawyers take an ethics class sometime between February 1994 and October 1995?

In fact, the FDIC intended to help the Administration force Mr. Hurwitz into trading his redwoods for the FDIC and OTS claims. They wanted to induce a settlement, and their words say it. There meeting with the Vice President was an important meeting, and the memo to Mr. Kroener to prepare for the meeting (Record 33) was remarkably candid:

FDIC has no direct claim against Pacific Lumber through which it could successfully obtain or seize the trees or to preserve the Headwaters Forest.

FDIC's claims alone are not likely to be sufficient to cause Hurwitz to offer the Headwaters Forest,[49] because of their size relative to a recent Forest Service Appraisal of the value of the Headwaters Forest ($600 million); because of very substantial litigation risks including statute of limitations, Texax negligence—gross negligence business judgment law, and Hurwitz role as a de facto director; and the indirect connection noted above, including the risk of Hurwitz facing suit from Pacific Lumber securities holders if its assets were disposed of without Pacific Lumber being compensated by either outsiders, or Hurwitz or entities he controls. (Record 33, page 3) (emphasis supplied)

Two things are clear after reading this passage. First, FDIC staff intended the claim to operate as an inducement, along with the OTS claim, for trees. Second, that there is no other rationale, after reading this evaluation, for the FDIC lawyers to have switched their recommendation between July 24 and July 27, 1995—except that they intended all along to help the Administration by playing a part in inducing a settlement.

After reading this passage, one wonders why the FDIC still attempts to propagate the obviously false notion that their claims had nothing to do with redwoods.

There was the October 22, 1995, meeting that included a cast from DOI, OMEB, FDIC, DOJ, and the Department of Treasury ''at which we [CEQ] initiated discussions on a potential debt-for-nature swap.'' (Document DOI H). That meeting led to FDIC attorney Jack Smith compiling a lengthy memorandum to Kathleen McGinty, the Chairman of CEQ. The memo reviewed issues and answers about the feasibility of various legal mechanisms that might be used to facilitate the redwoods debt-for-nature scheme. (Record 30).

Then in late 1995, Judge Hughes, the U.S. District Court judge who was assigned the FDIC's lawsuit discovered what the FDIC and OTS had done to team up using overlapping authority to harass Mr. Hurwitz (Record 37 and Document A) and the banking regulators' redwood debt-for-nature scheme began to be exposed.

At the same time (November 28, 1995) FDIC lawyers met with Katie McGinty (CEQ), Elizabeth Blaug (CEQ), and John Girimundi (DOI) where it was decided that there would be ''no formal contacts until OTS file,'' (Record 38) and it was acknowledged that ''after the administrative suit is filed is time for opening any discussions.'' However, the FDIC had already had several discussions with OTS about the redwoods swap, as had DOI staff beginning in July 1995, even before the FDIC claim was filed.

The notes from meetings between the FDIC and/or the OTS and environmental groups, government agencies, federal departments, the White House, from September 1995 through March 1996. (Record 31)

1996. FDIC LAWYERS CANNOT FIND THEIR WAY OUT OF THE FOREST—HELP, ''WE NEED AN EXIT STRATEGY FROM THE REDWOODS''

By January 6, 1996, the redwoods scheme had come together as planned. John Thomas reported to Jack Smith in a weekly update:

United Savings. OTS has filed their notice of charges. The statute has been allowed to run by us [FDIC and OTS] on everyone other than Hurwitz. We have moved to stay our case in Houston, and are awaiting a ruling. . . . And there is question of whether a broad deal can be made with Pacific Lumber. (Record 36)

Shortly thereafter, on January 19, 1996, the fact that Mr. Hurwitz had not directly brought the issue of the redwoods into settlement discussions became a problem. OTS apparently refused to join the meetings led by CEQ about Headwaters, and an FDIC lawyer reported the refusal to CEQ:

I advised Elizabeth Blaug about this yesterday afternoon. I said that if Hurwitz wanted to have global settlements with OTS and FDIC involved, he would have to ask for them. (Record 36A)

In other words, the *ex parte* agency discussions (without Mr. Hurwitz) about FDIC and OTS banking claims were at least improper, and the impropriety was now realized; however, it was too late.

By March 1996, the FDIC and OTS were deeply involved with promoting the redwoods debt-for-nature scheme, but they had still yet to receive any direct communication from Mr. Hurwitz proposing a redwoods swap for their claims. About March 3, 1996, the FDIC attorneys must have begun to realize that the agency should not be involved in the redwoods scheme. He made the following note on what appears to be a ''to do'' list:

Tell Mc[Reynolds]—we need exit strategy from Redwoods. NO collusion.

(Record 32)

So, the FDIC was (and still is) saying to the world that their claims have nothing to do with leveraging redwoods, and seven months after they are brought they ''need and exit strategy''? After two years of collusion between FDIC and a half dozen federal agencies, several environmental groups, the White House, and the OTS about a redwood scheme the FDIC wants to talk to McReynolds to ensure that there is ''NO collusion''?

And, by August 8, 1996, Mr. Hurwitz still had not apparently raised the redwoods debt-for-nature issue in the context of settling banking claims. Record 40 at page 2 are questions (and the start of draft answers) from Elizabeth Blaug to Jack Smith. Question number one is, ''Why doesn't the Administration forget the land exchanges and get Hurwitz to settle his debts in exchange for the trees?'' The answer: ''would be inappropriate because of independent status of regulators, pending litigation and administrative proceeding. . . .''

This means what FDIC and OTS had done since February 1994 concerning advancing the redwoods debt-for-nature scheme was inappropriate. In addition, if Mr. Hurwitz had really raised the notion of a redwood for bank claims swap, then this question would have been entirely unnecessary. The answer would have been ''Mr. Hurwitz raised it, the bank regulators and Administration did not, and we are pursuing that option.'' But that was not the case. The fixation on ensuring—even as late as August 1996—that Mr. Hurwitz would ''flrst'' raise the redwoods issue to the FDIC and OTS is quite illustrative of the fact that he had yet to do it and it was a prerequisite to either banking agency engaging on the redwoods scheme—something that they had already done.

Finally, on September 6, 1996, nearly a year after the FDIC suit was filed, the FDIC and OTS got what they wanted—a direct contact from Hurwitz that ''he will propose that the FDIC take certain redwood trees which we will exchange for other marketable property from perhaps Interior.'' (Record 41) The settlement meeting came the following week, and it is the first time Mr. Hurwitz's representatives raised the possibility of settling the banking claims using redwood trees. (Record 41) The settlement proposal was reject by the *Department of the Interior* within a few days, and it was clear that the FDIC and OTS were not even in charge of settling their own claims. (Record 42) This is additional evidence of the political nature of the FDIC lawsuit and OTS administrative action.

Discussions about a redwood swap for banking claims ebbed and flowed through the remainder of 1996, 1997, and 1998, and the law that authorized the outright purchase of the Headwaters Forest was enacted on November 14, 1997. Then, pursuant to that law, the transaction closed on the last day before the authorization and funds expired, March 1, 1999, and the federal government, with the help of the State of California purchased the Headwaters Forest.

This action left the bank regulators without their ''exit strategy'' (Record 32) from the redwoods scheme, and with a U.S. District Court judge that somehow began to see the FDIC and OTS cases and coordination for exactly what they were: strong arm tactics of an ''independent'' agency out of control. In an uncommonly harsh opinion, U.S. District Court Judge Lynn N. Hughes described FDIC tactics of bringing this case as those of the cosa nostra (meaning a tactic of making an ''offer'' that Hurwitz could not refuse). The July 27, 1995, FDIC ATS memorandum somehow ended up on the web page of the Houston Chronicle, and the court allowed discovery on the improper FDIC and OTS coordination and cooperation in the scheme to leverage the redwoods from Mr. Hurwitz.

Conclusion

The OTS case proceeded in the administrative forum, but a decision has still not been rendered. In spite of a late desire by the OTS to keep their claims clean of the redwoods matter, FDIC polluted its and OTS'claim by prompting and paying for OTS to pursue them in the first place as part of the redwoods scheme. OTS also attended several meetings in which details of the redwood swap scheme were discussed well before their claims were noticed or filed, including the critical July 26, 1995, meeting with the FDIC at which DOI and the Administration's desires for the redwoods and need for the banking claims to leverage the redwoods from Mr. Hurwitz were spelled out. The OTS is equally responsible for improper involvement in the redwoods scheme, and the pollution of its claims with a political agenda.

Meanwhile, Mr. Hurwitz has reportedly spent some $40 million to defend himself from a tactics that equate to those of the cosa nostra. Indeed, it is the bank regulators at the FDIC and OTS who shoulder responsibility for advancing a corrupted claim for improper purposes (i.e., to leverage redwoods) that are not authorized by law.

If anyone bears responsibility for corrupting the bank regulatory system—it is the FDIC and OTS legal staff who caved to the redwood desires of the DOI and the Administration. The Directors of the FDIC and OTS should take corrective action and withdraw the authorization for the FDIC lawsuit and the OTS administrative action against Mr. Hurwitz for matters involving USAT. Integrity of the bank regulatory system demands nothing less.

NOTES

[1] Therefore, funds appropriated to of any federal entity cannot be used for any activity that even supports acquisition of more Headwaters Forest. If funds are spent for such activities, then they are not legally spent.

[2] The FDIC action was authorized on August 1, 1995, and filed on August 2, 1995, the final day under the statute of limitations; Notice of the OTS administrative action was filed on December 26, 1995 and the OTS trial began on September 22, 1997.

[3] This occurred when the concept of purchasing the redwoods outright from Mr. Hurwitz was unlikely due to budget constraints.

[4] The first indication that bank regulators became part of the redwoods debt-for-nature scheme was rendered by U.S. District Court Judge Lynn Hughes, who observed that the FDIC and OTS were targeting Mr. Hurwitz in a manner that resembled tactics of the cosa nostra.

[5] The latest example of debt-for-more-nature is contained in Record 1A.

[6] This violated the ''no more'' clause, because federal funds were being spent to acquire additional acreage of the Headwaters Forest. The continued pursuit of redwood trees through debt-for-nature by bank regulators in no way diminishes the highly inappropriate involvement of the bank regulators in participating in the debt-for-nature scheme before the statute was enacted or before the transaction was consummated.

[7] 12 U.S.C. 1462a et.seq.

[8] 12 U.S.C. 1818 et. seq.

[9] Some non-banking claims (e.g. possible securities law claims) were referred to other entities for investigation.

[10] This cooperation was formalized in May 1994 when the FDIC began paying the OTS to advance its claims.

[11] These contacts were: Rep. Gonzolez to Hove (FDIC), November 19, 1993; Rep. Dellums to Hove (FDIC), December 15, 1993; and in 1994, at least seven written Congressional contacts were made to the FDIC or OTS on the debt-for-nature matter. Interestingly, Rep. Dellums wrote to the FDIC about the redwoods swap on the following dates: December 15, 1993, February 9, 1994, May 27, 1994, and September 14, 1995; and it was reported that on Monday, July 18, 1994, Ms. Jill Ratner attended a fundraiser for Re. Dellums in Oakland, California where she discussed the redwoods issue with the Vice President Gore. ''Mr. Gore said, 'I'm with ya,' '' Ratner reported enthusiastically to members of the Bay Area Coalition for the Headwaters Forest after the early-morning fundraiser for Rep. Ron Dellums, D–Oakland, in Oakland'' San Francisco Daily Journal, Friday, July 22, 1994. (Document J)

[12] In addition on November 30, 1993, Jack D. Smith, sent a memo about ''Hurwitz'' to Pat Bak (another FDIC lawyer) about two issues—(1) the Hamburg Headwaters acquisition bill and (2) some materials about a type of claim called a ''net worth maintenance'' claim advising Bak not to ''let the claim fall through the crack!'' The December 21 memo to Hove from Smith notes that FDIC and OTS are coordinating on this claim because the courts will ''not enforce'' them and there will be FDIC/OTS discussions about OTS bringing the net worth maintenance claims.

[13] The FDIC maintains that Mr. Hurwitz raised the issue of redwoods directly with the FDIC in September, August or September, 1996 (after the FDIC lawsuit was filed) and indirectly July 1995, through the Department of the Interior (prior to the lawsuit being authorized and filed by the FDIC). There is serious question whether a bank claims for redwoods swap was raised by Mr. Hurwitz or his lawyers prior to September 6, 1996, a year after the FDIC case was filed. (See discussion infra.)

[14] Such a forum—an administrative law judge at OTS—as opposed to an Article III court would be viewed by bank regulators as more favorable.

[15] FDIC admitted in a later memo that its claim against Hurwitz was not enough to leverage his redwoods because it was for a lower dollar amount than necessary and it was so weak on the merits, which is why the OTS administrative action on the same facts became so important to the scheme. (See, discussion infra at page 41 et. seq. and Record 33.) This is truly an incredible admission of the redwood purpose on the part of FDIC and is an admission of why the FDIC hired the OTS. Clearly it was to pursue a redwoods debt-for-nature scheme.

[16] Bank regulators at the FDIC attempted to do this by saying that they never raised the redwood issue with Mr. Hurwitz. To have done so would be an admission that they intended a redwoods debt-for-nature scheme, but their defense (that Mr. Hurwitz raised it with them first) really not address reach the issue of whether redwoods or a scheme to get redwoods from Mr. Hurwitz had any relationship to their banking claims.

[17] Id. See also, hearing transcript at pages 97–100 for the exchange between Mr. Kroener and the Members of the task force when he was confronted with internal FDIC e mail messages indicating that their lawyers were pursuing discovery for purposes of ''harassing'' Mr. Hurwitz.

[18] Rep. Hamburg had introduced H.R. 2866 that authorized the Forest Service to purchase the Headwaters Forest and designate it as wilderness.

[19] This meeting was preceded on February 2, 1994 with what appears to be a prepatory phone call between staff of Rep. Hamburg and a counsel to Chairman Gonzolez, Amanda Falcon.

[20] A net worth maintenance claim automatically attaches to owners who have 25% or more of a failed bank. Under banking law an owner is required to contribute personal funds to keep the bank solvent in such a case. Where ownership is less than 25%, bank regulators often try to get owners to sign an agreement binding them to personal contributions to keep failing institutions solvent. This is called a net worth maintenance agreement. There was no net worth maintenance agreement between Mr. Hurwitz and the bank regulators.

[21] Later Mr. Isaac explained the impropriety of outside meetings revealed in the ATS memo. The meeting with Rep. Hamburg was unknown at the time, but it is a dramatic example of how much the bank regulators polluted their process with a redwood agenda. Mr. Issac words: ''[O]ne of the things that that Agency has always prided itself on is its independence and its integrity and its freedom from the political process. To meet with environmentalists or anybody else, administration officials or congressional representatives, to talk about litigation that is proposed or is ongoing is something that I think was and is highly inappropriate. I find it shocking that people—people did that, and I've never seen that happen at that Agency before and I'm quite surprised by it.'' (Hearing Transcript, page 45).

[22] This is a very odd characterization, given that government agencies to not generally have authority to represent individuals or other entities. If Ms. Tanoue was saying that Mr. Hurwitz somehow raised the redwoods issue to the FDIC through the Department of the Interior, the characterization is not legitimate for several reasons. First, there is no evidence that the DOI is authorized by law to hold such a representative capacity. Second, the characterization is at odds with the fact that the DOI lawyers had been briefed and lobbied by environmental groups years prior to the DOI raising the issue (if indeed they did). Third, the characterization is at odds with the strategy sessions with Rep. Hamburg that are now known to have taken place. Fourth, the characterization presumes that the DOI ''representatives'' were accurately and truthfully making such an ''offer.'' Absent written proof of such an offer, this characterization is not believable. To the contrary, the written evidence clearly shows that Mr. Hurwitz's representatives were discussing trades of surplus government land for the redwoods at the time.

[23] Mr. Kroener is playing with the facts. See footnote .

[24] (Footnote not part of original) This statement is incorrect, given the notes of the

Rep. Hamburg meeting that show that the FDIC lawyers had willingly promoted their claims as leverage in the redwoods debt-for-nature scheme.

[25] They had no claim because they ''could not find'' a net worth maintenance agreement with Mr. Hurwitz.

[26] When the FDIC finally filed its claim in federal court on August 2, 1995, the federal judge hearing the case, Judge Hughes, said the FDIC and OTS used tools of Cosa Nostra (the mafia) against Mr. Hurwitz, uncommonly strong language to describe actions by any party, let alone the federal government.

[27] Leverage by other agencies—the Department of Labor and the Securities and Exchange Commission was also discussed at the Hamburg meeting. (See meeting note (bates number JS 004216) attached after Record 2A, page 2.) These are Jeff Smith's records.

[28] In light of the existence of this analysis by F. Thomas Hecht, one wonders how FDIC can, with any seriousness, keep saying that their claims and litigation had nothing to do with redwoods or a redwood debt-for-nature scheme. Their outside lawyers were analyzing the very debt-for-nature theories lobbied by the environmental groups and they acted as an early conduit to funnel information to FDIC legal staff. Even if one does agree with the positions of the Rose Foundation or Earth First! on this issue (and this report does not address their advocacy or their right under our Constitutional government to free speech and to petition their government), one must question the response of the FDIC and its outside lawyers to that petitioning. If the FDIC is truly operating under its statutory mandate—which is to recover cash—then the proper response to environmentalists or anyone else should have been, ''We have a statutory mission, and it is not to help the federal government acquire redwood trees or anything else, period.'' Surely, the redwoods agenda should not have permeated the bank regulators' analysis and thinking as it did.

[29] The handwritten memo is not dated, but it refers waiting until the fourth quarter of 1994 to make a decision, so this places the memo in late in the second or third quarter of 1994.

[30] McReynolds, according to his calendar entry, also met on May 16, 1995, with Geoff Webb (DOI) and Julia Levin, with the Natural Heritage Institute. That group had just written a paper for the Rose Foundation on April 19, 1995, entitled ''Federal Inter-Agency Land Transfer Mechanisms.'' (Record 11A) That paper notes that there are ''six federal statutory programs that allow property under control of one Federal agency to be transferred to another Federal agency or into non-federal lands'' and it begins laying out the mechanisms to get Mr. Hurwitz's redwoods into federal ownership.

[31] This date is important. Mr. Kroener's testimony and representations to the Task Force that it was July __ 1995, when DOI raised redwood debt-for-nature on behalf of Mr. Hurwitz. The first-hand involvement between Mr. McReynolds and Ms. Ratner (and the flyover) occurred two months prior to the time when DOI is said to have raised the redwoods debt-for-nature swap on behalf of Mr. Hurwitz with the FDIC and OTS.

[32] This wholesale acceptance of the environmentalist rhetoric about virgin redwoods in itself shows bias. The author of the memo must be misinformed, because the United States and the State of California already owns tens of thousands of acres of virgin redwood stands in California, most of which are parks that will not be logged.

[33] Two of the many examples are (1) the September 26, 1994, 43 page legal analysis how the FDIC could impose a constructive trust over Hurwitz's Pacific Lumber redwoods (Record 13) and (2) the June 29, 1995, letter from F. Thomas Hecht to the FDIC's attorney Jeffrey Ross Williams that forwarded a legal memo about the Headwaters situation and qui tam claims that had been filed related to the forest. (Record 14)

[34] The notes do not say that Mr. Hurwitz or any of his authorized representatives asked DOI to broach a redwoods debt-for-nature deal to swap bank claims for redwoods. The FDIC informed Chairman Young that the chain of events leading to McReynolds call was an 8:00 p.m. July 13, 1995, call to Alan McReynolds ''at his home'' from John Martin, a Hurwitz lawyer, ''urging him to contact the FDIC to begin a dialogue to resolve the FDIC's claims as part of a larger land transaction involving the Headwaters Forest that was being considered by Mr. Hurwitz and the Department of the Interior.'' (See, October 6, 2000, letter to Duane Gibson, General Counsel, Committee on Resources, from William F. Kroener, III, General Counsel FDIC contained in Appendix 3) This representation in no way says that Mr. Hurwitz (or his lawyer) initiated the discussion of a redwoods debt-for-nature swap with the Department of the Interior. It artfully says Mr. Hurwitz was ''considering'' such a proposal—a proposal more likely initiated by Mr. McReynolds.

In any case, the FDIC's legal relationship on any USAT banking matter was with Mr. Hurwitz, not with the Department of the Interior. Any indirect suggestion by an intermediary, such as Mr. McReynolds, who did not represent Mr. Hurwitz or USAT, does not change that legal relationship or alter the FDIC's responsibility to keep its claims free of political influence—from in and outside of the government. However, there is considerable question whether McReynolds' recollections related to a call from John Martin are accurate. Mr. Martin was discussing (with McReynolds) potential swaps of excess government property, such as military bases, for the redwoods, a subject with which McReynolds had experience. Mr. Martin's notes from his discussions at the time back up his recollection (Record 25).

[35] It is important to note that notes of McReynolds conversation with DeHenzel do not in any way indicate that Mr. Hurwitz or his lawyers had suggested or urged linking a settlement of the USAT banking claims and Mr. Hurwitz's redwoods in a swap, which is what McReynolds later said in sworn testimony.

[36] The Endangered Species Act was preventing Mr. Hurwitz from harvesting redwoods on Pacific Lumber Company's Headwaters land.

[37] (This footnote is not in original). This refers to surplus federal properties that were being considered by the government and Mr. Hurwitz on such a swap involving the redwoods. Mr. McReynolds had been working with Hurwitz lawyer, John Martin on potential swaps involving surplus military government property and redwoods.

[38] (This footnote is not in original). The $400,000 refers to the approximate amount FDIC had paid the OTS to bring its administrative action up to that point.

[39] (This footnote is not in original). This could refer to the fact that FDIC had not decided whether to bring its case, and the staff would recommend at that time that the Board not authorize the suit. Document X verifies that this was the staff recommendation at that time. This could also refer to the fact that OTS has not decided to bring their case.

[40] (This footnote is not in original). Indeed, this is the issue (a swap of redwoods for a surplus military base) that Mr. McReynolds and Hurwitz lawyer, John Martin, had discussed.

[41] (This footnote is not in original). The prior four sentences (notes from what McReynolds said) are very important, however, especially when read in context of footnote 25 and 26 of this report. Those sentences are: ''Adm[inistration might trade mil[itary] base. Had call from atty. Appraisals on prop[erty] for $500m. Said they want to make a deal.'' Indeed, Mr. Hurwitz wanted to make a deal—swapping redwoods for military bases. That was the subject of the ongoing discussion between the attorney who called McReynolds, Mr. John Martin of Patton Boggs, and McReynolds. Mr. Martin was only discussing possible trades of military bases for redwood land owned by Pacific Lumber. (Record 25) Mr. Martin did not deal with issues related to the banking claims and his notes from conversations with McReynolds verify this. The idea of mixing the bank claims—having been floated for years in Congress, in environmental circles including the Rose Foundation, was likely first raised by someone else, and it was McReynolds who had spent time ''flying over Headwaters'' with Rose Foundation Director, Jill Ratner, in May 1995.

[42] (footnote not in original) This confirms the earlier stated conclusion that one of the things that changed on July 21, 1995 was the realization by FDIC lawyers that the Clinton Administration and DOI had adopted and embraced the redwoods debt-for-nature scheme and they wanted it to be successful.

[43] FDIC decisions to file lawsuits are made by the FDIC Board, and the Authority to Sue Memorandum (ATS Memorandum) is the vehicle through which the FDIC staff lays out the case to the board.

[44] These notes appear to be taken by Bryan Veis of the OTS enforcement branch, and they are the only notes of this meeting produced, despite the fact that there were twelve attendees at the meeting—five from the OTS and seven representing the FDIC. (See, Record 26, page 00933). In the view of Committee staff, there appear to be serious omissions from the production of both agencies related to this meeting.

[45] (footnote not in original) So, it was indeed the Administration that wanted the redwoods, and brought them into the discussions.

[46] (footnote not in original) Note that the FDIC has had no direct contact from Mr. Hurwitz about such a proposal to settle the case using redwoods and they did not until September 1996. The FDIC is simply taking the word of the DOI on the issue.

[47] It is extraordinarily difficult to square this evaluation by Mr. Thomas with the discussion in the July 21, 1995, meeting that he attended where it was noted that, ''If we drop suit, will undercut everything.'' (Record 21)

[48] Record 35, page 2 and 3 also confirms this fact.

[49] Record 34 also confirms the thinking of FDIC lawyers that ''it will take more than FDIC claims to get the trees and FDIC remains an important part of exploring creative solutions to the issue.'' This sounds like words from staff of an agency trying to find a purpose, rather than staff of an agency carrying out its statutory purpose. In fact, Record 39, a ''Draft Outline of Hurwitz/Redwoods Briefing'' from Mr. Jack Smith's files, actually states directly how FDIC had strayed from its mission and adopted as its agenda the redwoods debt-for nature scheme: Significant development involving multi-Agency initiative led by Office of the Vice President to obtain title to last privately owned old growth virgin redwoods and place under protection of Department of Interior's National Park Service. FDIC plays prominent role in this Government initiative.'' The outline also acknowledges that the FDIC, working with CEQ, Interior, other agencies in exploring viability of ''debt for nature settlement.'' (Record 39, page 2) The date on this outline is May 16, 1996.

Daily Digest

HIGHLIGHTS

Senate passed the Elementary and Secondary Education Act Authorization.

The House passed H.R. 1088, Investor and Capital Markets Fee Relief Act.

House Committee ordered reported a Supplemental Appropriations for Fiscal Year 2001.

Senate

Chamber Action

Routine Proceedings, pages S6239–S6368

Measures Introduced: Twenty-one bills and five resolutions were introduced, as follows: S. 1037–1057, S. Res. 110–112, and S. Con. Res. 49–50. **Page S6318**

Measures Passed:

Elementary and Secondary Education Act Authorization: By 91 yeas to 8 nays (Vote No. 192), Senate passed H.R. 1, to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, after striking all after the enacting clause and inserting in lieu thereof the text of S. 1, Senate companion measure, and after taking action on the following amendments proposed thereto: **Pages S6239–S6305**

Adopted:

By 51 yeas to 49 nays (Vote No. 189), Helms Modified Amendment No. 648 (to Amendment No. 574), in the nature of a substitute. **Pages S6239, S6249–67**

Helms Amendment No. 574 (to Amendment No. 358), to prohibit the use of Federal funds by any State or local educational agency or school that discriminates against the Boy Scouts of America in providing equal access to school premises or facilities. **Pages S6239, S6249–68**

Sessions Modified Amendment No. 604 (to Amendment No. 358), to amend the Individuals with Disabilities Education Act regarding discipline. **Pages S6240–48**

By 52 yeas to 47 nays (Vote No. 191), Boxer Modified Amendment No. 803 (to Amendment No. 562), to provide that no public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group listed in title 36 of the U.S. Code as a patriotic society, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation. **Pages S6269–75**

Boxer Amendment No. 562 (to Amendment No. 358), to express the sense of the Senate with regard to providing the necessary funding for after school programs. **Pages S6269–75**

Kennedy (for Feinstein) Modified Amendment No. 571 (to Amendment No. 358), to provide grants to States with high growth rates in Title I children. **Pages S6279–89**

Gregg (for Kyl) Modified Amendment No. 527 (to Amendment No. 358), to establish an exception to the prohibition on segregating homeless students. **Pages S6279–89**

Kennedy (for Dodd/Shelby) Modified Amendment No. 457 (to Amendment No. 358), to increase parental involvement and protect student privacy. **Pages S6279–89**

Gregg (for Hutchinson) Modified Amendment No. 582 (to Amendment No. 457), to protect student privacy. **Pages S6279–89**

Kennedy (for Reed) Modified Amendment No. 432 (to Amendment No. 358), to broaden local applications. **Pages S6279–89**

Kennedy (for Jeffords) Modified Amendment No. 585 (to Amendment No. 358), to improve the Early Reading First Program. **Pages S6279–89**

Kennedy (for Jeffords) Amendment No. 586 (to Amendment No. 358), to improve the Pupil Safety and Family School Choice Program. **Pages S6279–89**

Kennedy (for Jeffords) Modified Amendment No. 587 (to Amendment No. 358), to refine the Improving Academic Achievement Program. **Pages S6279–89**

Kennedy (for Jeffords) Amendment No. 588 (to Amendment No. 358), to amend the local educational plan under section 1112(c) of the Elementary and Secondary Education Act of 1965 regarding models of high quality, effective curriculum. **Pages S6279–89**

Kennedy (for Jeffords) Modified Amendment No. 589 (to Amendment No. 358), to improve section 1116 of the Elementary and Secondary Education Act of 1965 regarding assessment and local educational agency and school improvement. **Pages S6279–89**

Kennedy (for Jeffords) Amendment No. 590 (to Amendment No. 358), to amend the uses of funds under the Local Innovative Education Programs. **Pages S6279–89**

Kennedy (for Jeffords) Amendment No. 591 (to Amendment No. 358), to amend section 1119 of the Elementary and Secondary Education Act of 1965 regarding professional development activities. **Pages S6279–89**

Kennedy (for Jeffords) Modified Amendment No. 592 (to Amendment No. 358), to make certain improvements to the bill. **Pages S6279–89**

Kennedy (for Jeffords) Amendment No. 593 (to Amendment No. 358), to provide for an independent evaluation that identifies the effects of specific activities to improve reading instruction. **Pages S6279–89**

Kennedy (for Jeffords) Amendment No. 595 (to Amendment No. 358), to maintain funding for the Individuals with Disabilities Education Act. **Pages S6279–89**

Gregg (for Cochran) Modified Amendment No. 512 (to Amendment No. 358), to authorize education programs of national significance. **Pages S6279–89**

Kennedy (for Reed) Modified Amendment No. 435 (to Amendment No. 358), to support the use of education technology to enhance and facilitate meaningful parental involvement to improve student learning. **Pages S6279–89**

Biden Amendment No. 386 (to Amendment No. 358), to establish school-based partnerships between local law enforcement agencies and local school systems, by providing school resource officers who operate in and around elementary and secondary schools. **Pages S6239, S6279–89**

Leahy (for Hatch) Amendment No. 424 (to Amendment No. 358), to provide for the establishment of additional Boys and Girls Clubs of America. **Pages S6239, S6279–89**

Clinton Further Modified Amendment No. 516 (to Amendment No. 358), to provide for the conduct of a study concerning the health and learning impacts of dilapidated or environmentally unhealthy public school buildings on children and to establish the Healthy and High Performance Schools Program. **Pages S6239, S6279–89**

Kennedy/Gregg Amendment No. 804 (to Amendment No. 358), to make certain improvements to the bill. **Pages S6279–89**

Jeffords Amendment No. 358, in the nature of a substitute. **Pages S6239–89**

Rejected:

By 36 yeas to 64 nays (Vote No. 187), Harkin (for Kennedy/Harkin) Amendment No. 802 (to Amendment No. 358), to amend the Individuals with Disabilities Education Act regarding discipline. **Pages S6240–48**

Withdrawn:

Dorgan Amendment No. 640 (to Amendment No. 358), expressing the sense of the Senate that there should be established a joint committee of the Senate and House of Representatives to investigate the rapidly increasing energy prices across the country and to determine what is causing the increases. **Pages S6239, S6289**

During consideration of this measure today, Senate also took the following action:

By 51 yeas to 47 nays (Vote No. 190), Senate agreed to a motion to reconsider Vote No. 188, by which Sessions Modified Amendment No. 604 (to Amendment No. 358), to amend the Individuals with Disabilities Education Act regarding discipline, was rejected. (Subsequently, upon reconsideration, the amendment was adopted by voice vote, as listed above.) **Pages S6268–69**

Kennedy (for Lugar/Bingaman) Modified Amendment No. 441 (to Amendment No. 358), to provide for comprehensive school reform (adopted on June 13, 2001), was further modified. **Page S6305**

A unanimous-consent agreement was reached providing that it be in order for the Clerk to make technical and conforming changes to any previously agreed to amendments with respect to the Elementary and Secondary Education Act Authorization bill. **Page S6305**

Subsequently, the unanimous-consent agreement was vitiated. **Page S6357**

A unanimous-consent agreement was reached providing that notwithstanding passage of H.R. 1, that previously agreed upon amendments where language was affected by amendments agreed upon later, that it be in order for these amendments to be included in the bill, as previously was the intent of the two managers. **Page S6357**

A unanimous-consent agreement was reached providing that S. 1 be considered as having been read a third time. **Page S6357**

Subsequently, S. 1 was returned to the Senate calendar.

Retirement of Sharon Zelaska: Senate agreed to S. Res. 110, relating to the retirement of Sharon A. Zelaska, Assistant Secretary of the Senate. **Pages S6356–57**

Commending Bob Dove: Senate agreed to S. Res. 111, commending Bob Dove on his retirement as Parliamentarian of the Senate. **Page S6357**

Honoring Army's 226th Birthday: Senate agreed to S. Res. 112, honoring the United States Army on its 226th birthday. **Page S6357**

Nominations Confirmed: Senate confirmed the following nominations:

Charles A. James, Jr., of Virginia, to be an Assistant Attorney General.

Stephen L. Johnson, of Maryland, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

James Laurence Connaughton, of the District of Columbia, to be a Member of the Council on Environmental Quality. **Pages S6356, S6368**

Nominations Received: Senate received the following nominations:

Frances P. Mainella, of Florida, to be Director of the National Park Service.

John W. Keys III, of Utah, to be Commissioner of Reclamation.

Daniel C. Kurtzer, of Maryland, to be Ambassador to Israel.

Russell F. Freeman, of North Dakota, to be Ambassador to Belize.

Clark Kent Ervin, of Texas, to be Inspector General, Department of State.

Richard J. Egan, of Massachusetts, to be Ambassador to Ireland.

Vincent Martin Battle, of the District of Columbia, to be Ambassador to the Republic of Lebanon.

5 Army nominations in the rank of general. **Page S6368**

Messages From the House: **Page S6317**

Measures Referred: **Pages S6317–18**

Measures Placed on Calendar: **Page S6318**

Statements on Introduced Bills: **Pages S6319–49**

Additional Cosponsors: **Pages S6318–19**

Amendments Submitted: **Pages S6351–55**

Additional Statements: **Pages S6316–17**

Notices of Hearings: **Page S6356**

Authority for Committees: **Page S6356**

Privilege of the Floor: **Page S6356**

Record Votes: Six record votes were taken today. (Total—192) **Page S6248, S6267, S6269, S6275, S6305**

Adjournment: Senate met at 9 a.m., and adjourned at 8:30 p.m., until 1 p.m., on Monday, June 18, 2001. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6358.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—HUD

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded hearings on proposed budget estimates for fiscal year 2002 for the Department of Housing and Urban Development, after receiving testimony from Melquiades R. Martinez, Secretary of Housing and Urban Development.

CROSS-BORDER TELEMARKETING FRAUD

Committee on Governmental Affairs: Permanent Subcommittee on Investigations held hearings to examine the nature and scope of cross border fraud, focusing on the state of binational U.S.-Canadian law enforcement coordination and cooperation and what steps can be taken to fight such crime in the future, receiving testimony from Lawrence E. Maxwell, Postal Inspector In Charge, United States Postal Inspection Service; Jackie DeGenova, Ohio Attorney General's Office, Columbia; Barry F. Elliot, Ontario Provincial Police, Ontario, Canada; Ann Hersom, Action, Maine; Bruce Hathaway, Columbus, Ohio; and Julia Erb, Kimball, Michigan.

Hearings continue tomorrow.

NURSING SHORTAGE

Committee on Veterans' Affairs: Committee concluded hearings to examine the impact of the nursing shortage on the Department of Veteran Affairs, after receiving testimony from Thomas L. Garthwaite, Under Secretary for Health, Catherine J. Rick, Chief Nurse Consultant, Nursing Strategic Health Care Group, Veterans Health Administration, Sarah Myers, Clinical Nurse, Atlanta Veterans Affairs Medical Center, on behalf of the Nurses Organizations of Veterans Affairs, Sandra McMeans, Staff Nurse, Martinsburg Veterans Affairs Medical Center, on behalf of the American Nurses Association and West Virginia Nurses Association, Sandra K. Janzen, Associate Chief of Staff/Nursing, James A. Haley Veterans' Hospital, Robert Petzel, Network Director,

Veterans Affairs Upper Midwest Health Care Network, Karen Robinson, Chairperson, Veterans Integrated Service Network Nurse Managed Care Initiative, and Mary C. Raymer, Associate Chief of Staff for Patient Care Services, Salem Veterans Affairs Medical Center, all of the Department of Veterans Affairs; and J. David Cox, Salsibury, North Carolina, on behalf of the American Federation of Government Employees (AFL–CIO).

PREVENTING ELDER ABUSE

Special Committee on Aging: Committee concluded hearings to examine the prevalence and risk of elder abuse, neglect and exploitation, potential and available services and the role of the federal government in addressing these problems, after receiving testimony from Stuart E. Schiffer, Acting Assistant Attorney General, Civil Division, Department of Justice; Paul R. Greenwood, San Diego District Attorney's Office, San Diego, California; A. Ricker Hamilton, Maine Department of Human Services Bureau of Elder and Adult Services, Portland, on behalf of the National Association of Adult Protective Services Administrators; Sara C. Aravanis, National Center on Elder Abuse, Washington, D.C.; Laura Mosqueda, University of California Irvine College of Medicine, Orange, California; and Joanne Hopper, Fruitland, Idaho.

House of Representatives

Chamber Action

Bills Introduced: 38 public bills, H.R. 2171–2208; and 5 resolutions, H. Con. Res. 161–163 and H. Res. 166–167, were introduced. **Pages H3201–02**

Reports Filed: Reports were filed today as follows:

H.R. 169, to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, amended (H. Rept. 107–101, Pt. 1). **Page H3201**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Isakson to act as Speaker pro tempore for today. **Page H3153**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Scott A. Dornbush, Van and Ben Wheeler United Methodist Churches of Van Texas. **Page H3153**

Barry Goldwater Scholarship and Excellence in Education Foundation: Read a letter from the Majority Leader wherein he announced his appointment of Representative Stump to the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation. **Page H3159**

Investor and Capital Markets Fee Relief: The House passed H.R. 1088, to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission by a recorded vote of 404 ayes to 22 noes, Roll No. 165. **Pages H3159–82**

Pursuant to the rule, the Oxley amendment in the nature of a substitute printed in the Congressional Record on June 12 and numbered 1 was considered as adopted. **Page H3161**

Rejected the LaFalce amendment in the nature of a substitute printed in the Congressional Record on June 12 and numbered 2 that sought to establish the "Fairness in Securities Transactions Act," to reduce securities transaction fees and provide pay parity for the employees of the Securities and Exchange Commission by a yea and nay vote of 126 yeas to 199 nays, Roll No. 164. **Pages H3174–82**

H. Res. 161, the rule that provided for consideration of bill was agreed to by a recorded vote of 408 ayes to 12 noes, Roll No. 163. Earlier, agreed to order the previous question by a yea and nay vote of 418 yeas to 1 nay, Roll No. 162. **Pages H3156–59**

Legislative Program: The Majority Leader announced the Legislative Program for the week of June 18. **Pages H3182–83**

Meeting Hour—Monday, June 18: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday. **Page H3183**

Meeting Hour—Tuesday, June 19: Agreed that when the House adjourns on Monday, it adjourn to meet at 12:30 p.m. on Tuesday, June 19 for morning-hour debates. **Page H3183**

Private Calendar: Agreed to dispense with the call of the Private Calendar on Tuesday, June 19. **Page H3183**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, June 20. **Page H3183**

Quorum Calls—Votes: Two yea and nay votes and two recorded votes developed during the proceedings of the House today and appears on pages H3157–58,

H3158–59, H3181–82, and H3182. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 4:11 p.m.

Committee Meetings

SUPPLEMENTAL APPROPRIATIONS FISCAL YEAR 2001; FISCAL YEAR 2001 REPORT ON SUBALLOCATION OF BUDGET ALLOCATIONS

Committee on Appropriations: Ordered reported a Supplemental Appropriations for Fiscal Year 2001.

The Committee approved the Report on the Suballocation of Budget Allocations for fiscal year 2001.

DOD—ROLE IN COMBATING TERRORISM—LESSONS LEARNED SINCE U.S.S. *COLE* ATTACK

Committee on Armed Services: Special Oversight Panel on Terrorism held a hearing on the role of the Department of Defense in combating terrorism and force protection lessons learned since the attack on the U.S.S. *Cole*. Testimony was heard from the following officials of the Department of Defense: Robert Newberry, Acting Assistant Secretary (Special Operations and Low-Intensity Conflict); and Brig. Gen. Jonathan H. Cofer, USA., Deputy Director, Operations (Combating Terrorism), J–34, The Joint Staff.

BALLISTIC MISSILE DEFENSE TESTING

Committee on Armed Services: Subcommittee on Military Research and Development held a hearing on Ballistic Missile Defense testing. Testimony was heard from Lt. Gen. Ronald Kadish, USAF, Director, Ballistic Missile Defense Organization, Department of Defense.

OSHA RULEMAKING

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing on ''Making Sense of OSHA Rulemaking: A 30 Year Perspective.'' Testimony was heard from public witnesses.

MEDICARE REFORM

Committee on Energy and Commerce: Subcommittee on Health held a hearing on ''Medicare Reform: Modernizing Medicare and Merging Parts A and B. Testimony was heard from William J. Scanlon, Director, Health Care Issues, GAO; and public witnesses.

911 EMERGENCY CALLING SYSTEMS

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing on Ensuring Compatibility with Enhanced 911 Emergency Calling Systems: A Progress Report. Testimony was heard from Thomas Sugrue, Chief, Wireless Telecommunications Bureau, FCC; and public witnesses.

ARE INVESTORS GETTING UNBIASED RESEARCH FROM WALL STREET?

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled ''Analyzing the Analysts: Are Investors Getting Unbiased Research from Wall Street?'' Testimony was heard from public witnesses.

''GASOLINE SUPPLY—ANOTHER ENERGY CRISIS?''

Committee on Government Reform: Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held a hearing on ''Gasoline Supply-Another Energy Crisis?'' Testimony was heard from John Cook, Director, Petroleum Division, Energy Information Administration, Department of Energy; Robert D. Brenner, Acting Assistant Administrator, Office of Air and Radiation, EPA; and public witnesses.

VA HEALTH CARE SYSTEM—HEPATITIS C SCREENING

Committee on Government Reform: Subcommittee on National Security, Veterans' Affairs, and International Relations held a hearing on ''Hepatitis C: Screening in the VA Health Care System.'' Testimony was heard from Cynthia Basetta, Director, Health Care-Veterans' Health and Benefits Issues, GAO; and Frances M. Murphy, M.D., Deputy Under Secretary, Health, Department of Veterans Affairs.

CAMPAIGN FINANCE REFORM—CONSTITUTIONAL PERSPECTIVES

Committee on House Administration: Held a hearing on Constitutional Perspectives of Campaign Finance Reform. Testimony was heard from public witnesses.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 2002

Committee on the Judiciary: Subcommittee on Courts, the Internet and Intellectual Property approved for full Committee action, as amended, H.R. 2047, Patent and Trademark Office Authorization Act of 2002.

OVERSIGHT—FIGHTING CYBER CRIME

Committee on the Judiciary: Subcommittee on Crime concluded oversight hearings on Fighting Cyber: Crime: Efforts by Private Business Interests. Testing was heard from public witnesses.

OVERSIGHT

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on ecosystem-based fishery management and the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. Testimony was heard from the following officials of the National Marine Fisheries Service, NOAA, Department of Commerce: William T. Hogarth, Acting Assistant Administrator, Fisheries; Steven A. Murawski, Northeast Fisheries Science Center; and Patricia A. Livingston, Alaska Fisheries Science Center; David L. Fluharty, Chairman, National Marine Service Ecosystems Principles Advisory Panel; and public witnesses.

ADMINISTRATION'S NATIONAL ENERGY POLICY

Committee on Science: Subcommittee on Energy continued hearings on the Administration's National Energy Policy: Hydrogen and Nuclear Energy R&D legislation. Testimony was heard from Representative Graham; the following officials of the Department of Energy: David K. Garman, Assistant Secretary, Energy Efficiency and Renewable Energy; H.M. Hubbard, Chair. Committee on Programmatic Review. Office of Power Technologies, National Research Council; and William D. Magwood, IV, Director, Office of Nuclear Energy, Science and Technology; and public witnesses

ADVANCED TECHNOLOGY PROGRAM FUTURE

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing on the Future of the Advanced Technology Program. Testimony was heard from public witnesses.

COMMUNITY SOLUTIONS ACT OF 2001

Committee on Ways and Means: Subcommittee on Human Resources and the Subcommittee on Select Revenue Measures held a joint hearing on H.R. 7, Community Solutions Act of 2001. Testimony was heard from Representatives Crane, Dunn, Hall of Ohio, Stearns, Edwards, Nadler, Scott and Watts of Oklahoma; Katherine Humphreys, Secretary, Family and Social Services Administration, State of Indiana; and public witnesses.

COMMITTEE MEETINGS FOR FRIDAY, JUNE 15, 2001

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Governmental Affairs: Permanent Subcommittee on Investigations, to continue hearings to examine the nature and scope of cross border fraud, focusing on the state of binational U.S.-Canadian law enforcement coordination and cooperation and what steps can be taken to fight such crime in the future, 9:30 a.m., SD–342.

House

Committee on Government Reform: hearing on ''The Use of Prosecutorial Powers in the Investigation of Joseph M. Gersten,'' 11 a.m., 2154 Rayburn.

CONGRESSIONAL PROGRAM AHEAD

Week of June 18 through June 23, 2001

Senate Chamber

On *Monday,* Senate will be in a period of morning business.

During the balance of the week, Senate expects to consider S. 1052, Patients' Bill of Rights, and any other cleared legislative and executive business.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Appropriations: June 20, Subcommittee on VA, HUD, and Independent Agencies, to hold hearings on proposed budget estimates for fiscal year 2002 for the Department of Housing and Urban Development, 10 a.m., SD–138.

June 20, Subcommittee on Defense, to hold hearings on the budget overview for fiscal year 2002 for the Navy, 10 a.m., SD–192.

June 21, Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine issues regarding blood cancer, 9:30 a.m., SD–124.

Committee on Armed Services: June 20, closed meeting to discuss NATO alliance matters, 4 p.m., SR–236.

Committee on Banking, Housing, and Urban Affairs: June 19, Subcommittee on Housing and Transportation, to hold oversight hearings to examine the implementation of the Multifamily Assisted Housing Reform and Affordability Act of 1997, 9:30 a.m., SD–538.

June 19, Subcommittee on International Trade and Finance, to hold hearings on proposed legislation authorizing funds for the United States Export-Import Bank, 2:30 p.m., SD–538.

June 20, Full Committee, to hold hearings to examine the condition of the United States banking system, 10 a.m., SD–538.

June 21, Full Committee, to hold hearings on the nomination of Angela Antonelli, of Virginia, to be Chief Financial Officer, Department of Housing and Urban Development; the nomination of Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator; and the nomination of Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: June 19, to hold hearings to examine local telecommunication competition issues, 9:30 a.m., SR–253.

June 21, Full Committee, to hold hearings to examine international trade issues, 10 a.m., SR–253.

Committee on Energy and Natural Resources: June 19, to hold hearings on S. 764, to direct the Federal Energy Regulatory Commission to impose just and reasonable load-differentiated demand rates or cost-of-service based rates on sales by public utilities of electric energy at wholesale in the western energy market; and S. 597, to provide for a comprehensive and balanced national energy policy focusing on sections 508–510 relating to wholesale electricity rates in the western energy market, natural gas rates in California and the sale price of bundled natural gas transactions, 9:30 a.m., SD–106.

June 21, Full Committee, to hold hearings to examine the national energy policy with respect to fuel specifications and infrastructure constraints and their impacts on energy supply and price, 9:30 a.m., SD–106.

Committee on Finance: June 19, to hold hearings to examine medicare governance, focusing on the Health Care Financing Administration, 10 a.m., SD–215.

June 20, Full Committee, to hold hearings to examine trade promotion authority, 9:30 a.m., SD–215.

June 21, Full Committee, to continue hearings to examine trade promotion authority, 9:30 a.m., SD–215.

June 21, Full Committee, to hold hearings on the nomination of William Henry Lash III, of Virginia, to be an Assistant Secretary of Commerce; the nomination of Allen Frederick Johnson, of Iowa, to be Chief Agricultural Negotiator, Office of the United States Trade Representative; the nomination of Brian Carlton Roseboro, of New Jersey, to be an Assistant Secretary of the Treasury; and the nomination of Kevin Keane, of Wisconsin, to be an Assistant Secretary of Health and Human Services, 11:30 a.m., SD–215.

Committee on Foreign Relations: June 20, to hold hearings to examine United States security interests in Europe, 10 a.m., SD–419.

June 21, Full Committee, to hold hearings on the nomination of William S. Farish, of Texas, to be Ambassador to the United Kingdom of Great Britain and Northern Ireland; the nomination of Howard H. Leach, of California, to be Ambassador to France; and the nomination of Alexander R. Vershbow, of the District of Columbia, to be Ambassador to the Russian Federation, 9:30 a.m., SD–419.

Committee on Governmental Affairs: June 20, to hold hearings to examine the role of the Federal Energy Regulatory Commission associated with the restructuring of energy industries, 9:30 a.m., SD–342.

June 21, Full Committee, to hold hearings on the nomination of Kay Coles James, of Virginia, to be Director of the Office of Personnel Management; and the nomination of Othoneil Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority, 2:30 p.m., SD–342.

Committee on Health, Education, Labor, and Pensions: June 19, Subcommittee on Aging, to hold hearings to examine geriatrics, focusing on meeting the needs of our most vulnerable seniors in the 21st century, 10 a.m., SD–430.

Committee on Indian Affairs: June 19, to hold oversight hearings to receive the goals and priorities of the member tribes of the Midwest Alliance of Sovereign Tribes/Intertribal Bison Cooperative for the 107th Congress, 10 a.m., SR–485.

June 21, Full Committee, to hold oversight hearings to examine Native American Program initiatives, 10 a.m., SR–485.

Select Committee on Intelligence: June 20, to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

Committee on the Judiciary: June 20, to hold oversight hearings to examine the restoration of confidence in the Federal Bureau of Investigation, 10 a.m., SD–226.

Committee on Small Business: June 21, to hold hearings on S. 856, the Small Business Technology Transfer Program Reauthorization Act of 2001, 10 a.m., SR–428A.

Committee on Veterans' Affairs: June 19, business meeting to consider the nomination of Gordon H. Mansfield, of Virginia, to be an Assistant Secretary of Veterans Affairs for Congressional Affairs, Time to be announced, Room to be announced.

House Chamber

To be announced.

House Committees

Committee on Agriculture, June 19, Subcommittee on Livestock and Horticulture, hearing to review fruits and vegetables, 10 a.m., 1300 Longworth.

June 20, full Committee, to consider 2001 crop year economic assistance, 10 a.m., 1300 Longworth.

June 20, Subcommittee on Conservation, Credit, Rural Development and Research, hearing to review agricultural credit, 2 p.m., 1300 Longworth.

June 21, Subcommittee on Department Operations, Oversight, Nutrition and Forestry, hearing to review the Emergency Food Assistance Program Enhancement Act of 2001, 10 a.m., 1300 Longworth.

Committee on Armed Services, June 20, hearing on U.S. national military strategy options, 10 a.m., 2118 Rayburn.

June 20, Subcommittee on Military Procurement and the Subcommittee on Military Research and Development, joint hearing on technology issues associated with the Department of Defense space operations, 2 p.m., 2118 Rayburn.

June 21, full Committee, hearing on the U.S. national security strategy and the Quadrennial Defense Review, 2 p.m., 2118 Rayburn.

June 21, Subcommittee Military Personnel, hearing on the current status of cooperation between the Department of Defense and the Department of Veterans Affairs in sharing medical resources, 10 a.m., 2212 Rayburn.

Committee on Education and the Workforce, June 20, Subcommittee on 21st Century Competitiveness, hearing on H.R. 1992, Internet Equity and Education Act of 2001, 10:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, June 19, Subcommittee on Commerce, Trade, and Consumer Protection and the Subcommittee on Oversight and Investigations, joint hearing on the Ford Motor Company's recall of certain Firestone Tires, 10:30 a.m., 2123 Rayburn.

June 20, Subcommittee on Health, hearing on the following: H.R. 1644, Human Cloning Prohibition Act of 2001; and Cloning Prohibition Act of 2001, 10:15 a.m., 2322 Rayburn.

June 20, Subcommittee on Telecommunications and the Internet, hearing on Campaign Finance Reform: Proposals Impacting Broadcasters, Cable Operations and Satellite Providers, 10 a.m., 2123 Rayburn.

June 21, Subcommittee on Commerce, Trade, and Consumer Protection, hearing on Information Privacy: Industry Best Practices and Technological Solutions, 10 a.m., 2123 Rayburn.

Committee on Financial Services, June 20, hearing on The California Energy Crisis: Causes, Impacts and Remedies, 10 a.m., 2128 Rayburn.

June 20, Subcommittee on Oversight and Investigations, hearing on the implementation of the EFT requirements of the Debt Collection Improvements Act of 1996, and the use of ETAs, 3 p.m., 2220 Rayburn.

June 21, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing entitled "Insurance Product Approval: The Need for Modernization," 2 p.m., 2128 Rayburn.

June 21, Subcommittee on Housing and Community Opportunity, to continue hearings on Affordability Issues, 9:30 a.m., 2128 Rayburn.

Committee on Government Reform, June 19, Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, hearing on The Results Act: Has it Met Congressional Expectations? 2:30 p.m., 2154 Rayburn.

June 20, full Committee, hearing on Compassionate Use of INDs—Is the Current System Effective? 1 p.m., 2154 Rayburn.

June 21, hearing on "Federal Information Technology Modernization: Assessing Compliance with the Government Paperwork Elimination Act," 10:30 a.m., 2154 Rayburn.

Committee on House Administration, June 21, hearing on Campaign Finance Reform, 1 p.m., 1310 Longworth.

Committee on International Relations, June 19, hearing on the U.S. Scholars Detained in China, 2:30 p.m., 2172 Rayburn.

June 20, to continue markup of H.R. 1954, ILSA Extension Act of 2001; and to mark up the following bills: H.R. 2069, Global Access to HIV/AIDs Prevention, Awareness, Education, and Treatment Act of 2001; and H.R. 2131, to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, 10:15 a.m., 2172 Rayburn.

June 21, hearing on International Trade Administration: The Commerce Department's Trade Policy Agenda, 10 a.m., 2172 Rayburn.

Committee on Resources, June 19, Subcommittee on Forests and Forest Health, hearing on H.R. 2119, National Historic Forests Act of 2001, 3 p.m., 1334 Longworth.

June 19, Subcommittee on National Parks, Recreation and Public Lands, to mark up H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his family; followed by a hearing on H.R. 1462, Harmful Nonnative Weed Control Act of 2001, 10 a.m., 1334 Longworth.

June 20, full Committee hearing on the following bills: H.R. 701, Conservation and Reinvestment Act; and H.R. 1592, Constitutional Land Acquisition Act, 10 a.m., 1324 Longworth.

June 21, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on H.R. 1230, Detroit River International Wildlife Refuge Establishment Act, 10 a.m., 1324 Longworth.

Committee on Science, June 20, Subcommittee on Space and Aeronautics, hearing on Space Launch Initiative: A Program Review, 2 p.m., 2318 Rayburn.

June 21, full Committee, hearing on National Energy Policy—Report of the National Energy Policy Group—Administrative View, 10 a.m., 2318 Rayburn.

Committee on Small Business, June 20, hearing on Procurement Policies of the Pentagon with respect to Small Business and the new Administration, 10 a.m., 2360 Rayburn.

June 20, Subcommittee on Workforce, Empowerment and Government Programs and the Subcommittee on Rural Enterprises, Agriculture and Technology, joint hearing on the reauthorization of the Small Business Technology Transfer Program, 2 p.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, June 20, Subcommittee on Aviation, hearing on Airline Customer Service Commitments: Status Report, 1 p.m., 2167 Rayburn.

June 20, Subcommittee on Economic Development, Public Buildings and Emergency Management, hearing concerning the reauthorization of the Appalachian Regional Commission, 2 p.m., 2253 Rayburn.

June 21, Subcommittee on Railroads, hearing on Magnetic Levitation Transportation Issues, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, June 20, Subcommittee on Health, hearing on mental health, substance-use disorders and homelessness programs within the Department of Veterans Affairs, 2 p.m., 334 Cannon.

Next Meeting of the SENATE

1 p.m., Monday, June 18

Senate Chamber

Program for Monday: Senate will be in a period of morning business.

Next Meeting of the House of REPRESENTATIVES

2 p.m., Monday, June 18

House Chamber

Program for Monday: Pro Forma Session.

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