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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

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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. BONILLA).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
May 21, 1998.

I hereby designate the Honorable HENRY BONILLA to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

Rabbi Moshe E. Bomzer, Congregation Beth Abraham-Jacob, Albany, New York, offered the following prayer:

Blessed is He, oh, Lord our God, King of the universe, Who has given wisdom to all of mankind.

I offer this prayer on the last days of the congressional session prior to our national Memorial Day weekend. It was exactly 130 years ago almost to the day that Congress resolved that a day be set aside to recognize and memorialize those who had given their lives to defend our country in times of war and in times of peace.

President Abraham Lincoln expressed it best when he stated: ''That we here highly resolve that these dead shall not have died in vain. We can do them no greater honor than to keep alive that which they gave their lives to preserve; love of country, duty, honor and defense of the right as it is given to us to see the right.''

Let us keep their memories alive in our hearts and deeds throughout this period of the year. May their memories be a blessing.

On behalf of all assembled here, I pray. May God Who grants salvation to kings and dominion to princes, Whose kingdom is one that spans all eternities, bless and protect, help and exhalt the President and the Vice President of the United States of America.

May God bless the leaders of our great Nation; the Members of this House of Representatives, their families and their staffs. May God bless all who help guide our Nation with honor, dignity and pride, increase their strength of soul to resist the pressure to shade truth or compromise integrity, increase their ability to advocate on behalf of a just and honest society, caring and concern for the welfare of all citizens and friends, regardless of race, creed, color, religion, gender or age. Help them welcome all the marvelous, colorful, contentious diversity of our Nation's people. Grant them the wisdom, kindness, patience and understanding to differentiate between right and wrong, good and evil, and between sanctity and impurity. Enable our leaders to bring peace among all mankind everywhere in the world.

As we celebrate this weekend, let us also realize this coming Sunday, May 24th, marks the 31st anniversary of the reunification of the City of Jerusalem, eternal capital of the state of Israel. King David wrote of the city, ''Our feet would stand in the gateways of Jerusalem. Jerusalem rebuilt, as a city reunited together. Seek the peace of Jerusalem, may those who love you be at ease. May there be peace between your walls and tranquility in your palace. For the sake of my brothers and friends I shall speak with you of peace.''

Bless us dear God with the light of Your countenance, shower your providence and influence for good throughout the world, uniting all mankind in peace and freedom. He who makes peace in the heavens above, may He make peace here on earth, as we say, 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.

Mr. HOLDEN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

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

Mr. HOLDEN. 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 339, nays 58, answered ''present'' 2, not voting 33, as follows:

[Roll No. 175]

YEAS—339

Abercrombie	Blunt	Chenoweth
Ackerman	Boehlert	Christensen
Allen	Boehner	Clayton
Andrews	Bonilla	Clement
Archer	Boswell	Clyburn
Armey	Boucher	Coble
Bachus	Boyd	Coburn
Baesler	Brady (TX)	Collins
Ballenger	Brown (FL)	Combest
Barcia	Brown (OH)	Condit
Barrett (NE)	Bryant	Conyers
Barrett (WI)	Bunning	Cook
Bartlett	Burton	Cooksey
Bentsen	Callahan	Coyne
Bereuter	Calvert	Cramer
Berman	Camp	Cubin
Berry	Campbell	Cummings
Bilbray	Canady	Cunningham
Bilirakis	Cannon	Danner
Bishop	Capps	Davis (FL)
Blagojevich	Cardin	Davis (IL)
Bliley	Castle	Davis (VA)
Blumenauer	Chabot	Deal

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

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

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Edwards
Ehlers
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Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
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Jackson (IL)
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Kim
Kind (WI)
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Klink
Klug
Knollenberg
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Linder
Lipinski
Livingston
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Towns
Traficant
Upton
Walsh
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weygand
White
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NAYS—58

Aderholt
Baldacci
Becerra
Bonior
Borski
Brown (CA)
Clay
Costello
DeFazio
English
Ensign
Fazio
Filner
Fox
Gephardt
Gibbons
Green
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hilleary
Hilliard
Hinchey
Johnson, E. B.
Kucinich
Lewis (GA)
LoBiondo
Lowey
Markey
McDermott
Menendez
Moran (KS)
Nussle
Oberstar
Obey
Pallone
Pastor
Pickett
Poshard
Ramstad
Sabo
Schaffer, Bob
Scott
Slaughter
Stupak
Taylor (MS)
Thompson
Thurman
Velazquez
Vento
Visclosky
Wamp
Waters
Weller
Wexler
Whitfield
Wicker

ANSWERED ''PRESENT''—2

Carson
Goodling

NOT VOTING—33

Baker
Barr
Barton
Bass
Bateman
Bono
Burr
Buyer
Chambliss
Cox
Crane
Crapo
Dixon
Frelinghuysen
Gonzalez
Granger
Hall (OH)
Harman
Hyde
Johnson (WI)
Johnson, Sam
Kolbe
Lewis (KY)
McCollum
Meeks (NY)
Owens
Pomeroy
Schumer
Skaggs
Tierney
Torres
Turner
Young (AK)

□ 1032

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas (Mr. TIAHRT) come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT 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. Lundregan, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 3130) ''An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes,'' disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints from the Committee on Finance: Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. MOYNIHAN, and Mr. BAUCUS; and from the Committee on Labor and Human Resources: Mr. JEFFORDS, Mr. COATS, and Mr. KENNEDY, to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 1998.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the unofficial results received from Dick Filling, Commissioner, Bureau of Commissions, Elections and Legislation, Commonwealth of Pennsylvania, indicating that, according to the unofficial returns of the Special Election held on May 19, 1998, the Honorable Robert A. Brady was elected to the Office of Representative in Congress, from the First Congressional District, Commonwealth of Pennsylvania.

With warm regards,

ROBIN H. CARLE,
Clerk.

SWEARING IN OF THE HONORABLE ROBERT A. BRADY, OF PENNSYLVANIA, AS A MEMBER OF THE HOUSE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania, Mr. Robert A. Brady, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the gentleman from Missouri?

There was no objection.

The SPEAKER. The Chair requests the newly elected Member and the Pennsylvania delegation to come to the well.

Mr. Brady of Pennsylvania appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office in which you are about to enter. So help you God.

The SPEAKER. Congratulations. You are a Member of the United States House of Representatives.

INTRODUCTION OF THE HONORABLE ROBERT A. BRADY

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

Mr. BORSKI. Mr. Speaker, it is my great honor today to introduce to my colleagues the newest Member from Pennsylvania's first district, BOB BRADY. On last Tuesday's special election, he is replacing our former colleague, the Ambassador to Italy, Tom Foglietta.

The minority leader mentioned there was no contest. Mr. BRADY won with an

overwhelming 77 percent of the vote in his special.

He is a carpenter by trade. He is a builder, a consensus builder. For the past 12 years, he has been the Democratic Party chairman in the City of Philadelphia and has done an exceptionally good job. In my view, he is the best chairman the city has ever had. His ability to build consensus is what makes him such a great chairman and I believe will make him such a great Member of this body.

When the special was called, Mr. Speaker, and when BOB BRADY announced his intentions to seek this seat, and I believe most of my colleagues understand that the First Congressional District of Pennsylvania is a majority-minority district, more African-Americans than there are white, but when BOB BRADY announced his intentions, the support that he received from the district was overwhelming from all sides, corners, races, religions, and an absolute true testament to the kind of a person he is.

He has demonstrated through his tenure as a chairman the ability to work across the aisle and certainly among the races. It is my great honor to be able to introduce him here today.

Mr. Speaker, I would first like to yield to my colleague, the gentleman from Philadelphia (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, let me thank the gentleman from Pennsylvania (Mr. BORSKI), the senior congressman from our city, for yielding. I also would like to welcome and add in part to this introduction of ROBERT BRADY to the United States Congress.

This body is made up of Members who come here from all walks of life and who have a desire to serve the public. BOB BRADY is going to fit in extraordinarily well, because he has walked through all of the shoes of the lives of millions of people in the southeastern area of Philadelphia region. He has worked with people to help constructively engage them in the political process.

He is someone I have known for at least 2 decades now who has worked with me and worked with others in Philadelphia to help us as we strive to serve in public life. I want to welcome him, acknowledge his family who I know very, very well, his wife and his mother and others who are here. But I just wanted to say to my friend, welcome to the United States Congress.

Mr. BORSKI. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my colleague for yielding to me, and let me join in this side of the aisle in welcoming our newest Member to Congress.

BOB, you represent the American dream. You are here today with your family and your friends and all those carpenters and those building trade workers around Pennsylvania and the region are here with you because they understand the fight that you have taken, the fight for jobs and better working conditions for people throughout our region.

As you know, I represented at one point in time or another probably a third to a half of the district that you now have. I had southwest Philadelphia and the Delaware County waterfront area that is now a part of your district. They are all good people. They are just like you.

The reason why BOB BRADY is going to be such a great Member of Congress is he has never forgotten his roots. He understands that this job in the end is really about helping those people that you have walked the streets with, that you have actually helped in constructing our city and our region. We are all very happy and pleased to have you here.

As a Republican with the great State of Pennsylvania, we join with you as what is a tradition in our State, bipartisan cooperation on behalf of our people. Congratulations and best wishes.

Mr. BORSKI. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I am proud to also rise to salute our newest congressman, Congressman BOB BRADY from Pennsylvania, who, as discussed earlier by prior speakers, has always been someone who has been a consensus builder, but he is also a coalition builder, someone to bring disparate groups together for a common good.

He has always been a great listener. To be a great congressman, you have to be a good listener. As a people person, he will work to make sure that, not only make sure the First District is represented, but he also has a regional view to not only what is good for Philadelphia, but what is good for Pennsylvania and what is good for the Nation.

Knowing of his principles and his core beliefs, we will have a great congressman come forward to help make this Nation stronger and help make this House stronger.

Congratulations to BOB BRADY and his family, and we are looking forward to serving with him.

Mr. BORSKI. Mr. Speaker, it is my great pleasure to introduce to you a man of the people to the people's House, Congressman BOB BRADY.

REMARKS OF HON. ROBERT A. BRADY, NEW MEMBER OF THE HOUSE

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

Mr. BRADY of Pennsylvania. Thank you, Mr. Speaker. To my dean from Pennsylvania, Congressman MURTHA, I always will respect the fact that you will be my dean and I will follow you, along with my leader.

I thank you, BOBBY BORSKI and CHAKA FATTAH. I thank the other Congressmen FOX and WELDON from the other side of the aisle for those kind remarks.

After all you have said, I should not say anything else because I probably will just louse it up, but I need to thank a few people.

I am not here by myself. I am here with a lot of people that I brought, my family and my friends. But I am not standing here because of myself. I am standing here because of a lot of people had the faith to vote for me in this past reelection. Without labor, organized labor, which I am a part of, it would not have been able to be happening.

I am also a city chairman. So with my fellow ward leaders and all my committee people that shared the faith and came out and voted for me, I need to thank them, and I need to thank a whole lot of people that helped me get here through the tough times.

We had a couple campaign trail buddies running, as you know, from Congress, running throughout the district. It is a long and tedious thing to do. I just appreciate the Joel Johnsons, the Bobby Rebstocks, I do not want to get in trouble, but the Jimmy Harritys, the Steve Kaplans, the Phil Espositos, who was my motor guy. We had all kinds of vehicles running around. I want to thank him. He is our navigator, also.

I want to thank my staff down in City Committee in the City of Philadelphia, Linda Matthews and Charlie Bernard, the Elmers, all the staff down there, special people, a fellow that you may know by the name of Buddy Cianfrani, who was a mentor and pushed me right on through in some bad times, and a young lady who is the chairperson of the African-American Ward Leaders by the name of Carol Campbell that I would be absolutely wrong and remiss if I did not thank her personally for all the things she has done for me through many, many years helping me get here.

☐ 1045

There is an another gentleman, our City Comptroller by the name of Jonathan Saidel. He is the gentleman that keeps us loose. He is also my finance chairman, who put a whole lot of money there. He is sitting up there. Jonathan, I love you for all you have done. There have been some tough times, and he has been by my side many times. I just hope that I can continue to be here and be by your side.

A lot was said about my candidacy. I had the fortune to bring a whole lot of people together from all different walks of life, different races and different creeds, the black clergy, the NAACP, the Jerry Mondessaires, the Senator Fumos.

It was written in the press that it was remarkable that I could have people standing next to me at an announcement and standing next to me at a victory party that will probably never stand next to each other again. But I am going to work to try to make that happen.

Without question, my family. My mother, I have to apologize for how I put her through three elections in the last six months. Between my younger brother becoming a judge, me winning a primary and the special election. Mom, I guess you are going to have to get used to it, because it is going to have to happen a couple more times. I hope to be here awhile.

My wife Debra, who again, was the one that when you come home, as anybody knows, to your spouse, there is somebody there that is going to help you, that is going to ask you how your day was and get you out in the morning to start another day. So, Debra, I thank you and love you.

To my children, Bobby and his wife, my daughter-in-law Maria, who stands behind me, as your children and your family stand behind me, they stood behind me.

My lovely daughter, Kimberly, my little kindergarten teacher, I can never forget my Kimberly who says, ''Geez, dad, I am taking off Monday and Tuesday. I hope you can get sworn in on Wednesday,'' but it happened on Thursday, so she got a whole week off. So she is happy.

For my mother-in-law and father-in-law for putting up with me, and my brother-in-law Rick, my brother Frankie, his wife and little Taylor. My sister-in-law, Roseann, and my brother Frankie. I hope I don't miss anybody, but they are family, they will understand.

And I have two jewels. I have two jewels in my life. I have a little 18 month old granddaughter by the name of Serena and a little four year old granddaughter by the name of Alexandra. They are my two jewels. She is up there laughing now. Hi, baby.

They are interest on an investment, the grandchildren, and I love them dearly. When I look at them, I see my father, because my father fought a war for us to be here, got wounded a couple times for us to be here, and he cannot physically be here, but he is up there being here right now today.

I know that I am honored to be here. I did not think I would be this humbled. It is hard to humble me in the city that I come from. They tried 10, 15 years ago, and it has not worked and I am pretty callous to it. But I am humble today because of what has happened.

I thank all my colleagues, I thank all my old friends, I thank hopefully all my new friends, and I appreciate all the kind words, and I look forward to working with you. Sometimes you lead, sometimes you follow. It is a lot easier to follow. I do not care. I am a team player. I do not care if I have to pitch, catch, batboy, I just want to be on the team. As far as I am concerned, the team that I am on is the team of the United States of America.

So thank you all, and I appreciate that.

RABBI MOSHE BOMZER

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

Mr. MCNULTY. Mr. Speaker, I join with all of my colleagues in congratulating BOB, and look forward to working with him here in the House of Representatives.

Mr. Speaker, I am honored to introduce to the Members of the House my good friend Rabbi Moshe Bomzer, the spiritual leader of Congregation Beth Abraham–Jacob of Albany, New York. Rabbi Bomzer delivered the opening prayer today, and, incidentally, for those who have been around here for a while, he also delivered the opening prayer 20 years ago this month.

Following in the footsteps of his father, who has led Brooklyn congregations for the past 45 years, Rabbi Bomzer is now celebrating the 13th year, his ''Bar Mitzvah year,'' Mazeltov, as the spiritual leader of the largest Orthodox Jewish Congregation in our State's Capital District.

In addition to his congregational duties, Mr. Speaker, Rabbi Bomzer is also the Chairman of the Chaplaincy Committee of the Capital District Board of Rabbis, serving as Chaplain at the Albany Correctional Facility, St. Peter's Hospital, and Teresian House.

In 1996, Governor George Pataki appointed him to the Kosher Law Enforcement Advisory Board. Last year he was appointed a National Vice President of the Rabbinical Council of America.

Mr. Speaker, he has won the respect and admiration of his congregation and of our community as a whole, for his tireless dedication to the preservation of Judaism and the Jewish heritage. We are honored to have him here today, along with his wife, Rachael, and a large delegation from the Hebrew Academy of the Capital District.

Finally, Mr. Speaker, let me just say a word of special thanks to my friend Moshe for the part of his prayer that dealt with saluting the men and women who wore the uniform of the United States military through the years. Had it not been for their service, we would not have the privilege of bragging about how we live in the freest and most open democracy on the face of the earth.

Freedom is not free. On behalf of my brother Bill, who made the supreme sacrifice, and all of those who made the supreme sacrifice, and all of those who served in our Armed Forces through the years, like the late Pete D'Alessandro from Watervliet, New York, Congressional Medal of Honor winner, Moshe, I thank you.

PERSONAL EXPLANATION

Ms. CARSON. Mr. Speaker, I was unavoidably absent on Wednesday, May 20, attending a family funeral. As a result, I missed rollcall votes 165 through 174. Had I been present, I would have voted ''no'' on rollcall 165, ''no'' on 166, ''yes'' on 167, ''yes'' on 168, ''yes'' on 169, ''yes'' on 170, ''yes'' on 171, ''yes'' on 172, ''no'' on 173 and ''yes'' on 174.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA). The Chair will entertain 10 one-minute speeches on each side.

GIVE ME LIBERTY

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

Mr. DELAY. Mr. Speaker, the First Amendment of the Constitution is the most famous and most effective campaign reform proposal in history. It has effectively protected the political freedoms of American citizens for over 200 years. If we leave it alone, it will protect the freedom of our citizens for the next 200 years.

So why are some Members of this House so desperate to change the First Amendment? They want the government to have a greater role in determining how elections are financed and how campaigns are run. They want a bigger government bureaucracy, they want to sharply limit campaign contributions, and they want the taxpayers to finance political campaigns.

Mr. Speaker, this kind of government intrusion into the election process would make Thomas Paine turn over in his grave. Now is the time for all good men to stand firm against Big Brother. Vote for free speech, and against amendments that take away free speech from our citizens.

SILENCING AMERICA'S WORKING FAMILIES

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

Ms. ROYBAL-ALLARD. Mr. Speaker, my California colleagues join me in bringing attention to an orchestrated campaign to silence America's working families.

Proposition 226, on California's June ballot, will undermine unions' efforts to advocate on behalf of our Nation's workers. By subjecting union members to a cumbersome annual verification of their dues, Proposition 226 will cripple organized labor's ability to promote fair wages, health care, retirement security and worker safety.

This initiative is harmful and unnecessary. The U.S. Supreme Court has already ruled that workers have the right to refuse to contribute to their union's political activities. This anti-worker movement is not about paycheck protection for workers, it is about the systematic disenfranchisement of American workers, such as our

teachers, nurses, police officers and factory workers.

Californians and Americans across this Nation must band together to stop this calculated attempt to stifle the voices of working people in our country.

NUCLEAR UTILITY INDUSTRY AND NUCLEAR WASTE

(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, America's favorite pastime, baseball, is upon us here in our Nation's Capital. However, the nuclear utility industry is striking out, and it seems they are becoming a backstop, rather than a leader for common sense.

Recently Secretary Pena pitched a proposal of up to $5 billion for financial relief to utilities to cover on-site nuclear waste storage costs. Unfortunately, and yet to no one's surprise, the nuclear industry balked at the idea, even though the U.S. Court of Appeals denied the utility request ordering and directing the Energy Department to immediately begin accepting their nuclear waste.

Here was a chance for all Americans to hit that home run by keeping this deadly waste on-site, rather than endangering the lives and health of citizens across this Nation, transporting it through their communities. But, once again, the nuclear industry is holding out for a bigger contract, just so they can pad their pockets.

Mr. Speaker, the nuclear industry is trying to build an expensive taxpayer-paid expansion team, but Americans are not going to accept the unsafe and ridiculous curve balls this industry is throwing at America.

OPPOSE PROPOSITION 226

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

Mr. BROWN of California. Mr. Speaker, I rise today to express my opposition to California's Proposition 226, aimed at curtailing labor union political influence, but which is written so broadly it would apply to a variety of organizations that are not labor unions. These could include employee associations of every kind, such as those representing nurses, social workers, law enforcement officers and physicians.

This initiative is so broad that it will keep labor unions and their members from expressing their point of view, not only on political matters, but on issues such as education, health care and retirement security. It imposes costly bureaucratic regulations on unions, which would make it more difficult for union members to come together and make their voices heard on government decisions that affect working families.

It is no coincidence that this initiative comes before California's voters after the AFL-CIO's aggressive education and mobilization efforts in 1996.

As a labor union member and former union organizer, I oppose this attempt to undermine workers' rights.

DEFENDING THE FIRST AMENDMENT

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

Mr. DOOLITTLE. Mr. Speaker, the First Amendment to the Constitution reads, ''Congress shall make no law abridging the freedom of speech.''

The First Amendment is America's most important political reform. As Americans, it is our most precious and sacred guarantee. That is why the founders put it at the very top of the list.

Mr. Speaker, it was political speech that the founders deemed most vital. Why? Because it was political speech that the British government tried to stifle when it was in power.

The Founding Fathers tried to prevent government suppression of political speech from ever happening again, by adopting the First Amendment to the United States Constitution. The framers of the Constitution did not explicitly or implicitly create a campaign speech exception to the First Amendment, as some Members of Congress now wish to do.

Mr. Speaker, under the First Amendment, Congress does not have the authority to regulate political speech. As long as we have any shred of a Constitution left, we are going to have the ability to act as individuals or as groups to engage in political expression, free of government intrusion.

□ 1100

DEFEAT PROPOSITION 226

(Mrs. TAUSCHER asked and was given permission to address the House for 1 minute.)

Mrs. TAUSCHER. Mr. Speaker, on June 2, my fellow Californians will be voting on Proposition 226, a proposal to handicap the efforts of labor unions by limiting their ability to spend the dues they collect from their members.

While Prop 226 is designed to sound attractive to working families, its real purpose is to put an undue burden on union members. Prop 226 would force unions into the unworkable position of seeking written approval from their members each year before spending any of the money for political purposes.

Currently, union members who choose to restrict the use of their union dues for political purposes may do so. Prop 226 instead places the onerous burden of unnecessary paperwork requirements on the vast majority of union members who want their unions to act on their behalf. This requirement would limit the free speech of union workers and impose burdensome red tape on the unions.

This House recognized the folly of Prop 226 when it rejected similar legislation known as the Paycheck Protection Act most recently. I hope Californians will follow the House's lead by defeating Proposition 226.

CLINTON WHITE HOUSE AIDS IN CHINA'S MISSILE DEFENSE PROGRAM

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

Mr. NEUMANN. Mr. Speaker, it seems to have taken 5 nuclear blasts in India, combined with stunning revelations about campaign contributions from Communist China into the Democrat Party to send America a wake-up call.

With each passing day, the China scandal gets bigger, more worrisome and more baffling. It is time the White House explains why it granted a waiver to the Loral Corporation and others who are helping China develop its missile and rocket programs.

Instead of trying to block high technology transfers to Communist China, this administration seems to be encouraging it. Instead of embarking on a national missile defense program for our country, for America, this administration is allowing the transfer of technology to help China develop missiles that may be aimed at the United States of America. Instead of making nuclear war less likely, this administration appears to be cooperating in making China a nuclear power.

The result? Well, India runs 5 nuclear bomb tests; Pakistan will likely follow; even Japan may inevitably reassess its own nuclear policy.

It is not a question if this technology will make the world a more dangerous place, it already has.

WAR ON DRUGS REQUIRES MORE THAN ''NEIGHBORHOOD CRIME WATCH'' MENTALITY

(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, today the House will cast the key vote on the war on drugs. The House will vote to either maintain the status quo and do nothing, or begin to fight.

Some of the misconceptions and untruths about the Traficant amendment: It will not mandate the use of troops; it will only allow it if the administration requests it, and if so, they must be specially trained, and they can only be deployed with civilian officers, and they cannot make arrests; local officials must be notified.

The substitute kills it. The substitute says, surveillance in intelligence only.

I say to my colleagues, neighborhood crime watches perform surveillance.

We will never win the war on drugs with a neighborhood crime watch.

Defeat the substitute. Give the Traficant amendment an opportunity for an up/down vote.

AMERICAN PEOPLE DESERVE IMMEDIATE EXPLANATION FROM WHITE HOUSE ON AID TO CHINA'S MISSILE DEFENSE TECHNOLOGY

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

Mr. ROGAN. Mr. Speaker, why would the United States share some of its most sensitive missile technology with Communist China? Did America really fight a Cold War and reduce the nuclear threat only to have the threat return from a Communist regime that recently threatened to launch a nuclear strike on Los Angeles over the Taiwan issue?

This administration's policy to grant waivers to high technology companies that are working to improve China's missile and rocket capability is dangerous, reckless, and indefensible.

The press now reports that 13 of China's 18 long-range strategic missiles have nuclear warheads aimed at American cities. And how does the Clinton administration respond? It actively works to help China's missile and rocket program.

The American people deserve an explanation of this administration's conduct relating to transfers of missile technology to China; and Mr. Speaker, they deserve it today.

U.S. NEEDS MANAGED CARE REFORM NOW

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

Mr. GREEN. Mr. Speaker, hidden in today's Washington Post is an article that Speaker GINGRICH sent the Republican Health Care Reform Task Force of the Republican Conference back to the drawing board. It is another attempt of the Republicans to destroy-by-delay health care improvements which are needed by the American people.

We should not forget that our first priority is to help the patient. We owe it to the American people to provide top quality medical care. We need an anti-gag rule where physicians can talk to their patients. We need an appeals process, both internal and external, for the patients' benefits. We need to give employees the choice, other than going to the HMO that somebody else chooses for them. We need to make decision-makers responsible. If a doctor is responsible for one's health care, then somebody who tells that doctor no should also be responsible.

This decision stops a bipartisan effort to provide health care reform, and I hope that the American people think it is such a shame, just like I do. We need managed care reform now, Mr. Speaker.

AMERICAN ECONOMY PROTECTION ACT

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

Mr. KNOLLENBERG. Mr. Speaker, yesterday's vote on the Gilman amendment is good news for the opponents of the Kyoto treaty.

By a vote of 420 to 0, 420 to 0, the House voted to protect the quality of our national defense by exempting the U.S. military operations from the Kyoto treaty's stringent requirements.

I applaud the gentleman from New York (Mr. GILMAN) for his leadership on this issue and I urge my colleagues to continue fighting against this treaty, because it is not just bad for the military. This overreaching agreement would have a negative effect on virtually every sector of our economy and result in fewer jobs, higher prices, and a lower standard of living for the American people.

Along with my colleagues, the gentlewoman from Missouri (Mrs. EMERSON) and the gentleman from Pennsylvania (Mr. KLINK), I have introduced a bill, the American Economy Protection Act, that would prevent even $1 of taxpayer money from being spent to implement the provisions of the Kyoto treaty until it has been ratified by the Senate.

With the President attempting to circumvent the Constitution by implementing the Kyoto treaty through regulatory actions, I urge my colleagues to support this bill. It ensures that the Kyoto agreement is debated in the light of day and not rammed through the back door.

REAGAN ADMINISTRATION ALLOWED MILITARY TECHNOLOGY TO BE SOLD TO ROGUE NATION

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

Mr. GUTIERREZ. Mr. Speaker, I rise with a sad duty today. I rise to present documents showing a direct link between campaign contributions and administration decisions that allowed military technology to be sold to a rogue nation.

Yes, the Departments of Commerce and State took a series of steps allowing military sales to international pariahs. When was this? In the 1980s, during the Reagan administration. And one country buying the equipment, Iraq, would later turn those weapons on us.

But why would Ronald Reagan do such a thing? Well, using the same tactics that other Members have used this week, I checked to see who benefited from those sales. Guess who? The same defense contractors who contributed millions and millions of dollars to the Republicans during the 1980s.

Today we are hearing accusations of treason, of aiding Communist dictators. Well, according to the 1983 Washington Post article, the Commerce Department, then under Ronald Reagan, was found to have made decisions that ''enabled the Soviet Union to improve the accuracy of its nuclear missiles.''

We want to investigate sales of military technology? We want to tie campaign contributions to administration waivers or accuse the White House of aiding Communists?

Let us investigate the President. President Ronald Reagan.

WHITE HOUSE TO BE HELD ACCOUNTABLE FOR TRANSFER OF TECHNOLOGY TO CHINA

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

Mr. TIAHRT. Mr. Speaker, the shift of the responsibility by the Clinton administration for licensing the export of advanced technology has created dangerous foreign policy and potentially jeopardized our Nation's security.

The administration is stripping the State Department and the Department of Defense from overseeing the export of advanced technology. The result of this questionable policy is the export of advanced satellite technology which can be used to perfect the targeting of nuclear weapons to a hostile country like Communist China.

This raises serious questions, as was pointed out in a column by Mark LEVIN in today's Washington Times. Questions like, what national security interest was served when President Clinton personally intervened, overruling objections from the Pentagon and the State Department, to approve further technology transfers to the Communist Chinese? Which Clinton administration officials were involved in this decision?

After the Justice Department opened a criminal investigation into the unauthorized technology transfer to the Communist Chinese in February of 1996, why were the companies involved not suspended, at least temporarily, from exporting further?

Mr. Speaker, potentially this could be a stunning betrayal of American interests and national security. I urge my colleagues to join me in holding the administration accountable for this dangerous transfer of technology.

PROPOSITION 226 BAD FOR WORKING FAMILIES

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

Mr. SHERMAN. Mr. Speaker, I spent over 20 years working for genuine campaign finance reform. Nothing does

that effort more harm than the mutant and perverted effort at campaign finance reform symbolized by Proposition 226.

In California we spend too much money on campaigns, but at least often, that money is balanced, and often, the interests of corporations are well represented, but the interests of working men and women are represented by organized labor. We need to hear from both sides in California campaigns.

Unfortunately, Proposition 226 is intellectually dishonest. It says that the money of labor union members cannot be spent by labor leaders on political efforts, but at the same time, it welcomes corporate money, money that belongs to shareholders, to be spent on politics by corporate management. What it does is it gives us a lopsided input into California politics.

Mr. Speaker, in the last election we in California raised the minimum wage. We did so because of the input of organized labor and working men and women. I urge Californians to join with the Sierra Club and the League of Women Voters in opposing Proposition 226.

CELEBRATING ISRAEL'S 50 YEARS OF EXISTENCE

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

Mr. PAPPAS. Mr. Speaker, we around the world, including many Americans, are celebrating the 50th year of the existence of the State of Israel. In fact, a delegation from this House will be traveling to Israel during the Memorial Day recess to celebrate with the Israeli people, yet I am disappointed by many signals that the administration is sending to our ally, Israel, that is one of our staunchest allies among the community of nations.

The Secretary of State was reported to have made ultimatums regarding withdrawal of territory by the Israeli government and people. The First Lady was recently quoted as supporting the establishment of a Palestinian state. The Israeli people are our friends. We should not only celebrate with them, we should demonstrate we are their friend and support their existence.

OPPOSE CALIFORNIA'S PROPOSITION 226

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

Ms. PELOSI. Mr. Speaker, I rise today to denounce the anti-worker initiative on California's June 2 ballot.

Proposition 226 is not a grassroot effort to reform campaign finance and protect the paychecks of California's workers, as its proponents would have us believe. It is a national right-wing effort funded by national organizations to set their agenda: To silence working families, first in our State, and then throughout the Nation.

The primary backers of the California initiative do not even reside in our State. National business, conservative and anti-union organizations, and individuals, in a quest to set a national agenda State-by-State, have contributed more than 60 percent of the funding to the Prop 226 campaign.

Backers include conservative, anti-union groups and individuals such as Americans For Tax Reform and J. Patrick Rooney, an Indianapolis millionaire who chairs the Golden Rule Insurance Company and is a significant GOPAC contributor.

In the past 2 years, working families who participated in the political process won a minimum wage increase, protected medicare from cuts, and saved Federal job safety protections. So now this initiative's proponents are looking for payback.

Please join the League of Women Voters, the Sierra Club, and working families in opposing this anti-worker initiative.

U.S. NEEDS FULL ACCOUNTING OF DAMAGE DONE TO NATIONAL SECURITY

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

Mr. ADERHOLT. Mr. Speaker, on the policy of launching U.S. satellites with Chinese missiles, National Security Adviser Sandy Berger says, ''The telecommunications industry has a tremendous need to put satellites up into the air, and that exceeds the launch capacity of the United States.''

It is shameful that this administration's answer to the problem was a transfer of dangerous missile technology to a Communist government which has 13 nuclear missiles aimed at us.

I encourage the President to review his budget and that he work with Congress to increase funding for U.S. missile and space launch research. Defense is not an option. The space program is not a luxury.

The United States is the greatest technological and manufacturing nation in the world. Let us build U.S. rockets to launch U.S. satellites and spend what is necessary to maintain our Nation's defense.

Finally, all Americans need to see this administration cooperate fully with the committee of the gentleman from California (Mr. Cox) so that we can have a full accounting of the damage already done to our national security.

□ 1115

CAMPAIGN FINANCE REFORM IS CRITICALLY IMPORTANT

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

Mr. HINCHEY. Mr. Speaker, the principal issue still facing this Congress is the issue of campaign finance reform. Campaign finance reform is so critically important because it influences so much else of what we do in this House and the other one, as well.

In the summer of 1995, the Speaker of this House, the gentleman from Georgia (Mr. NEWT GINGRICH), shook hands in New Hampshire with President Clinton. He promised then that we would resolve the issue of campaign finance reform. Now it is almost 3 years later, and the issue has still not been resolved. Not only that, but we have not been assured that we will have a simple up-or-down vote on the principal bill that seeks to reform the way we finance campaigns, the Meehan-Shays bill.

We need to bring that bill out to the floor. That bill needs to be fully debated. This House needs to have the opportunity to vote yes or no on Meehan-Shays. Let us have that vote as soon as possible, this week, next week, or the week after. Let us have that vote up-or-down on Meehan-Shays.

TOBACCO AND IMMUNITY FOR WITNESSES

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

Mr. KINGSTON. Mr. Speaker, I am here to talk about tobacco. Think about this one minute, those who are cigarette smokers. They may be familiar with the Pagoda Red Mountain cigarette. The Pagoda brand, as Members may know, is the third largest cigarette selling in the world. It is the number one cigarette in China. It is owned by the Communist Chinese government.

The Pagoda Mountain cigarette company has an operative named Ted Sioeng. He gave $400,000 to the Democrat National Party. His associate, Mr. Kent La, personally gave $50,000 of the money. He is willing to testify before the Burton committee and just say why a Communist cigarette company was interested in giving the $400,000 to the Democrats. No big deal. Something we all should want to know. Maybe it is that they just like good cigarette smokers, and recognize the Democrats as such.

But the reality is, 19 Democrats on the committee will not let him speak. They will not let the guy testify. The Democrat Justice Department, the Department of Justice, said they have no problem with immunity and will let Mr. Kent La speak and have immunity, but 19 Democrats say no.

What do the Democrats want to do instead? We heard it this morning. They want to investigate Ronald Reagan. I suggest they have been smoking more than Pagoda Red Mountain cigarettes or whatever it is.

TIME FOR REPUBLICAN PARTY TO STOP DELAYING ON CAMPAIGN FINANCE REFORM

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

Ms. DELAURO. Mr. Speaker, the Republicans are up to their old tricks again, ''Doolittle'' and ''DeLay.'' Despite his famous handshake with President Clinton in the summer of 1995, Speaker GINGRICH has done little to pass real campaign finance reform. In fact, what he has said is that we need more money in our political system. He supports the bill of the gentleman from California (Mr. DOOLITTLE) to remove what limits there already are in place on campaign contributions.

Meanwhile, the Republican leadership has delayed a vote on real reform in this House. They initially promised a full and fair vote in March. It is now May, and we are still waiting. Meanwhile, the Republican Whip, the gentleman from Texas (Mr. TOM DELAY), third ranking member in this body, he is leading the effort to kill real reform.

I think it is time for the Republican party to stop delaying and to please do something about campaign finance reform. Stop listening to the wealthy and to the special interests. Start listening to average working Americans in this country. Vote for real campaign finance reform. Vote for the bipartisan Meehan-Shays bill.

ANNOUNCEMENT OF PROCEDURES AND DEADLINE FOR PRINTING OF AMENDMENTS ON BUDGET RESOLUTION FOR FISCAL YEAR 1999

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

Mr. SOLOMON. Mr. Speaker, the Committee on Rules is planning to meet the week of June 1 to grant a rule which will limit the amendment process for consideration of the budget resolution for fiscal year 1999. The Committee on the Budget ordered the budget resolution reported last night and is expected to file its committee report sometime over the next few days.

Any Member wishing to offer an amendment should submit 55 copies and a brief explanation of the amendment by 2 o'clock on Tuesday, June 2, to the Committee on Rules in Room 312 of the Capitol.

As has been the common practice in recent years, the Committee on Rules strongly suggests that the Members wishing to offer amendments, that they offer those amendments as complete substitute amendments that keep the Federal budget in balance. I do not intend to put out a rule that is going to put on the floor a budget that is not in balance.

Members should also use the Office of Legislative Counsel and the Congressional Budget Office to ensure that their amendments are properly drafted and scored and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

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

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

Mr. MOAKLEY. Mr. Speaker, it is my understanding that we are not going to have any votes until Wednesday at 5, and there will be very few Members back in the Chamber Tuesday. Could the gentleman from New York (Mr. SOLOMON) make that at 2 o'clock Wednesday instead of 2 o'clock Tuesday, because we do have an extra day, then?

Mr. SOLOMON. Mr. Speaker, the gentleman makes a point, but it is going to be difficult to make sure that the full Members of the House and the media and the public are going to be able to see those substitutes.

As the gentleman knows, because there is a Memorial Day recess and work period back home, there are no scheduled votes until 5 o'clock on Wednesday. It is just imperative that the gentleman and I, and the gentleman is the ranking member of that committee, that the gentleman and I be able to see those amendments for at least 24 hours.

Let me make a concession and move it up to, instead of 2 o'clock, to 5 o'clock on Tuesday. Our staffers are going to be here working all during next week.

Mr. MOAKLEY. Mr. Chairman, if the gentleman will yield further, as the gentleman well knows, most of the Members will not be back until Wednesday, because it is the Memorial Day weekend and they have other things in their district. So I would hope that just one more day would not make much difference as far as the media goes, or the gentleman's ability to look over the amendments, or my ability to look over the amendments. I think it would be fairer to those who will be spending all the time back in their districts.

Mr. SOLOMON. As the gentleman from Massachusetts (Mr. MOAKLEY) knows, when the gentleman was the chairman of the committee and I was the ranking member, I used to complain that we were not given enough notice to be able to look at what we were going to act on.

It is imperative that we put out the rule on Wednesday because of the timeliness of the budget, as the gentleman knows. It is important that the gentleman and I and our committee act on it Wednesday night, and to give them that extra day, the gentleman and I would not even have a chance to look through these voluminous budgets. So I am just doing what the gentleman has done in the past.

Mr. MOAKLEY. If the gentleman will continue to yield, Mr. Speaker, it is just as recent as few days ago he has given us amendments 10 minutes before we are going to vote on them. If we have the capacity to digest them in that short period of time, I am sure the gentleman would have the same opportunity.

Mr. SOLOMON. The gentleman knows that the gentleman from New York (Mr. JERRY SOLOMON) has pledged to be more fair than the Democrats ever were to us, and I have lived up to that for 4 years now. We are going to continue to do that.

Mr. MOAKLEY. Is the gentleman saying that the Committee on Rules is going to meet on Wednesday to discuss the budget amendments?

Mr. SOLOMON. Yes. That is right.

Mr. MOAKLEY. We are going to meet on Wednesday?

Mr. SOLOMON. Yes, sir. We have to.

Mr. MOAKLEY. In that case, I withdraw my request.

Mr. SOLOMON. The gentleman now understands why he should have at least 24 hours to be prepared.

Mr. MOAKLEY. I am sorry, I thought we were not going to meet on this until Thursday. But if we are going to meet on it Wednesday, then we should do that.

Mr. SOLOMON. We have to meet on Wednesday because the bill has to be on the floor on Thursday, and it is the most important legislation to come before the body.

Mr. MOAKLEY. I understand. I thought the gentleman was not going to take it up until Thursday.

Mr. SOLOMON. The gentleman has always been so understanding, and he has not changed a bit.

Mr. MOAKLEY. Sometimes.

Mr. SOLOMON. I thank the gentleman.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 432, SENSE OF HOUSE CONCERNING PRESIDENT'S ASSERTION OF EXECUTIVE PRIVILEGE, AND HOUSE RESOLUTION 433, CALLING UPON THE PRESIDENT TO URGE FULL COOPERATION BY FORMER POLITICAL APPOINTEES, FRIENDS, AND THEIR ASSOCIATES WITH CONGRESSIONAL INVESTIGATIONS

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 436 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 436

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive privilege. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the Majority Leader or his designee and a Member opposed to the resolution. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

SEC. 2. After disposition of or postponement of further proceedings on House Resolution 432, it shall be in order to consider in the House the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the Majority Leader or his designee and a Member opposed to the resolution. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield half our time to my good friend, the gentleman from Massachusetts (Mr. MOAKLEY), pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 436 is a rule providing for consideration of two House resolutions. The first of these is House Resolution 432, expressing the sense of the House of Representatives concerning the President's assertion of executive privilege introduced by the gentleman from Texas (Mr. DELAY), the Majority Whip.

Second is House Resolution 433, calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations. That resolution is introduced by myself.

Mr. Speaker, the rules provide that House Resolution 432 concerning executive privilege shall be debatable in the House for 1 hour, equally divided and controlled by the majority leader and his designee, and an opponent.

The rule further provides that House Resolution 433 relating to the cooperation of witnesses before congressional investigations shall be debatable in the House for 1 hour, equally divided and controlled by the majority leader and his designee and an opponent.

Mr. Speaker, over the last several days this House has undertaken an effort to broaden the discussions of ethics in the Nation's Capital from one of internal House committee procedures to criminal procedures generally, and the rule of law. Members on both sides of the aisle have been troubled by personal attacks, as I have.

We can take the personalities away and the efforts to engage in personalities on the floor, but the questions that trouble our constitutional system of government are not going to go away. Every day we are seeing more of it in the papers across the country.

Tuesday, we voted overwhelmingly, 402 to zero, to express that the House should immunize and should hear testimony from four witnesses whose testimony has been blocked by the minority of the Committee on Government Reform and Oversight. We have had several hours of debate yesterday and votes on a number of amendments to the defense authorization bill expressing the House's position on transfers of sophisticated satellite technology in China.

Those votes passed 417 to 7, 414 to 4, 412 to 6, and 364 to 54, that was overwhelming bipartisan support, opposing the President's actions of turning over missile technology to a potential enemy of the United States that will, in the near future, have their weapons of mass destruction trained on the children of this Nation.

Mr. Speaker, the House should proceed to consider these two resolutions and fulfill our constitutional obligations to press for answers to the severe questions raised by this technology transfer to Communist China.

Mr. Speaker, the first resolution this rule allows the House to debate concerns the President's assertion of executive privilege.

□ 1130

We should all pay attention. Many of us have been here for a long time, my good friend the gentleman from Massachusetts (Mr. MOAKLEY) even longer than I, and I have been here for two decades.

Mr. Speaker, the President has invoked executive privileges in three congressional inquiries and two court proceedings prior to his current assertions before a Washington, D.C. grand jury in a criminal investigation. Executive privilege, as Members are aware, is rarely invoked by Presidents, if ever invoked at all. It has only happened twice in the history of this Nation, once by a President named Nixon and now by a President named Clinton.

President Reagan's counsel has recently written that President Reagan insisted the White House would not assert executive privilege over any materials even in the controversial Iran Contra investigation. The Reagan White House staff honored that pledge. That information was turned over to this Congress. President Clinton's own counsel has advised a similar approach to executive privilege, but it would seem that the Clintons have not followed that advice. Mr. Speaker, something is wrong.

Former White House counsel Lloyd Cutler, if Members are back in their offices, I want them to listen to this, former White House counsel Lloyd Cutler, a very respected gentleman, wrote a special memorandum to the executive departments and agencies in 1994, stating that in circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings.

Mr. Speaker, the case law is strongest in favor of a President's claim of executive privilege over matters relating to national security and diplomatic issues, but the law is skeptical of a general claim of executive privilege. Courts typically must balance the assertion of executive privilege by a President with the public's right to know.

Mr. Speaker, press accounts have indicated that the President has asserted executive privilege before the independent counsel in regard to conversations with staff and with the First Lady over the appropriate political response to allegations of perjury and obstruction of justice in the White House. The media has further reported that a Federal judge has rejected this claim and an appeal is being contemplated by the White House. The decision itself is under seal. In addition, many prominent news organizations have filed briefs to make the proceedings regarding executive privilege public so that the American people can see for themselves.

Mr. Speaker, I think it is eminently reasonable to protect grand jury testimony and presume the innocence of the individuals impacted by this investigation. However, an assertion of executive privilege which has no relation to national security whatsoever, and which is the subject of a great debate in law schools and on the editorial pages around this country right today, should be discussed on the floor of this House.

Mr. Speaker, the second resolution this rule will allow the House to consider, my legislation, relates to the President's former political appointees and friends who have failed to cooperate with congressional investigations. Over 90 witnesses, Mr. Speaker, 90 witnesses in the campaign finance investigation have fled this country or have taken the Fifth Amendment privilege before the committee.

Mr. Speaker, this is a level of noncompliance that the highly regarded director of the FBI, Louis Freeh, who we all have great respect for, has compared to an organized crime case.

Mr. Speaker, that is just terrible.

Mr. Speaker, last year the House voted to empower the Committee on Government Reform and Oversight with additional procedural tools to enhance its ability to gather evidence at home and overseas. I put that out of the Committee on Rules. The House has spoken on one occasion and endorsed the importance of this inquiry by granting authorities beyond what is available in the House rules today.

Mr. Speaker, all Members should support the mechanisms needed to allow the truth to be aired in this scandal. We are talking about breaches of national security that affect the strategic interests and the future of this great democracy of ours.

The minority on the Committee on Government Reform and Oversight has opposed on two occasions the granting of immunity to four witnesses, which the Department of Justice has approved before the committee. Perhaps the minority will come to regret their two votes against immunity in the

coming weeks, especially when we see what has been taking place now on the front pages and in the editorials of this Nation across this country, when it looks like that we have literally sold this country down the drain by giving away the kind of missile technology, again, which is going to allow a potential enemy of the United States to train long range missiles of mass destruction against this country.

Press accounts on a daily basis are reporting that the Justice Department is investigating whether the White House decision to export commercial satellite technology to China was based on campaign contributions. We need to know, Mr. Speaker. If that is true, that is truly, truly outrageous.

Johnny Chung, we have all heard his name mentioned all across the headlines now for months, a Democrat fundraiser who pled guilty in the campaign finance probe in March, has reportedly told the Justice Department that he received $300,000 from a senior executive in a State-run Chinese aerospace firm to give to the Democrat party. Chung then contributed approximately $366,000 thousand to the Democratic National Committee for the 1996 election cycle.

Mr. Speaker, two of the witnesses whom the Democrats have blocked immunity for in the Committee on Government Reform and Oversight were coworkers of Johnny Chung. Think about that. They were coworkers of Johnny Chung.

Consideration, Mr. Speaker, of House Resolution 433 will give the House an opportunity to express its support for returning these individuals to the United States and obtaining the necessary testimony so that Americans can have some confidence that the United States foreign policy and security interests were not sold to the highest bidder. We need to debate that on the floor of this House.

When the number of unavailable witnesses in a legitimate congressional inquiry into the executive branch reaches the level of an organized crime probe, which is what Louis Freeh said, something is terribly wrong in the Nation's Capital and we need to get to the bottom of it.

Mr. Speaker, it is troubling that the highest level officials at the White House refuse to even confirm if a sweeping, precedent-setting assertion of executive privilege has been made. I believe that a conspiracy of silence has descended over this town, and it is time for the House to debate this issue. If Members believe that they have a right to know as constitutional officers of this body and the public has a right to know, then they should vote for this rule. If they want to have a discussion on the House floor of how personal ethics, the rule of law and the public interest intersect in this town, come over here and vote for this rule.

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

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

Mr. Speaker, I thank my dear friend, my chairman, the gentleman from New York (Mr. SOLOMON), for yielding me the customary half hour.

Mr. Speaker, both of the resolutions we are considering here today were created as nothing more than an unfortunate form of political retaliation. Last Thursday the gentleman from New York (Mr. SOLOMON) announced we would be considering these resolutions because of the action of the Democratic House leadership. In case that statement was ambiguous, this Monday's Roll Call newspaper quoted a Republican leader as saying, ''This is retaliation, this is war.''

I do not think it could be any clearer, Mr. Speaker. These resolutions are intended to punish House Democrats for asserting their rights on the House floor. They are to attack the President because of the perceived refusal of his friends and employees to cooperate with the many congressional allegations and investigations.

Mr. Speaker, I do not think I need to remind anybody that retaliation is really not a very good reason for legislation. Improving our Nation's schools is a great reason for legislation. Cleaning up our air, cleaning up our water is a great reason for legislation. Creating jobs for American workers is a great reason for legislation. Punishing political opponents is not a good reason for legislation.

Mr. Speaker, that is exactly what my Republican colleagues are doing here today, under their own admission. Mr. Speaker, they are not doing it very well. Last Thursday the Committee on Rules was scheduled to meet at 3:00 for the defense authorization bill. At 3 minutes before 3:00 I got a call saying the Committee on Rules would be adding an emergency matter to the defense meeting.

Given the subject matter, Mr. Speaker, I think it is a stretch to call these partisan resolutions emergencies. I hope that last-minute additions of this nature do not become a regular practice of the committee. Up until now we have got great notice, we have got ample notice so that we are adequately prepared when we go into that committee room, but 3 minutes before the meeting we were given these resolutions.

And lest anyone gets too serious about these resolutions, I would remind my colleagues that they are simply resolutions expressing the opinion of the majority of the House. They carry no legislative weight, and I think at this time they are just a waste of time.

Given the enormous number of partisan investigations taking place in the House these days, and if anybody has to be reminded, there are over 40 investigations going on currently in the House of Representatives, taking up the time of 12 of the 20 standing committees. Given the hundreds of people who have been subpoenaed, it is no wonder a few of them have declined to cooperate. I do not remember the victims of the Salem witchcraft trials running to be burned at the stake. The last time I looked, they had not changed the Fifth Amendment protection which grants a person the right to refuse to testify.

The other resolution dealing with executive privilege is so poorly written, I am not sure exactly what they are after. The resolution calls for all documents relating to the claims of executive privilege. Now, does that mean legal documents asserting the right to executive privilege, which are currently sealed in the courts, or does that mean documents dealing with the subject matter the President is privileged to keep to himself?

Mr. Speaker, as my Republican colleagues know, it does not matter because as legally binding documents, these resolutions are not worth the paper they are written on. To make matters worse, they are being brought up under a closed rule which not even allows the Democrats a motion to recommit.

Now, if we had brought such a rule 3 minutes before the committee scheduled to meet, my Republican colleague, my able Republican colleague would be 8 feet off the floor screaming and hollering, what has happened to our democratic process? But now, Mr. Speaker, they are in the majority so they are somewhat less indignant at the loss of minority rights than they were just a few years ago.

So I urge my colleagues to oppose this rule and these partisan resolutions. I feel the American people are just sick and tired of their representatives using the power of the Congress to attack Members of the other party.

Mr. Speaker, my dear friend and colleague said that President Reagan never invoked executive privilege. I will include in the RECORD the CRS study on the history of executive privilege where it shows President Reagan used the executive privilege three times and President Bush also used it one time.

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

FACT SHEET ON PRESIDENTIAL CLAIMS OF EXECUTIVE PRIVILEGE: BACKGROUND, HISTORY, CASE LAW, RECENT INVOCATIONS, AND PROCESS FOR CLAIMS—MARCH 27, 1998

I. INTRODUCTION

Within the last year the Supreme Court and federal appeals courts have ruled upon presidential claims of the executive privilege (In re Sealed Case) attorney-client and work product privileges (In re Grand Jury Subpoena, In re Sealed Case), and temporary immunity from civil suit for unofficial acts (Clinton v. Jones). While none of the rulings directly involved congressional demands for testimony or documents, their rationales potentially impact the conduct of current and future committee investigations. This fact sheet outlines the background of the development of presidential executive privilege, including the nature of the conflicting interests of Congress and the Executive, the role of the courts and the existing case law, and the history of recent presidential invocations of the privilege and the process of such invocations.

II. CONGRESSIONAL CHALLENGES TO PRESIDENTIAL CLAIMS OF EXECUTIVE PRIVILEGE

A. Understanding the nature of interbranch conflict

Congressional challenges to presidential claims of executive privilege do not represent a breakdown in our scheme of separated powers but rather are part of the dynamic of conflict built into the constitutional scheme to achieve workable accommodations which will preclude the exercise of arbitrary power. The framers, rather than attempting to define and allocate all governmental power in minute detail, relied on the expectation that were conflicts in scope of authority arose between the political branches, a spirit of a mutual accommodation would promote resolution of the dispute in the manner most likely to result in efficient and effective functioning of our governmental system. Thus, the coordinate branches are not to be seen as existing in an exclusively adversarial relationship to one another when a conflict in authority arises. Instead, each branch is enjoined to take cognizance of the implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. The essence of that dynamic was captured by Mr. Justice Jackson in the Steel Seizure Case:

''While the Constitution diffuses power the better to secure liberty, it also contemplates that the practices will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but independence, autonomy but reciprocity.''

Despite the notoriety of Watergate and more recent clashes over invocation of the privilege, history indicates that such confrontations are rare and that the implicit constitutional injunction to accommodate has been honored in almost all instances of notoriety.

B. Conflicting interests of Congress and the President and their supporting constitutional powers

(1) Congress needs information—

(a) for the formulation and enactment of legislation;

(b) to ensure executive compliance with legislative intent;

(c) to inform the public;

(d) to evaluate program performance;

(e) to protect the integrity, dignity, reputation and prerogatives of the institutions;

(f) to investigate alleged instances of poor administration, arbitrary and capricious behavior, abuse, waste, fraud, corruption and unethical conduct; and

(g) to protect individual rights and liberties.

(2) The President needs to withhold information—

(a) to meet the challenges and requirements of modern national security, military and diplomatic policy decisionmaking which often demand rapid, decisive and secret decisions and responses to protect the integrity of the decisional process;

(b) to secure accurate, frank and robust advice and information from subordinates, particularly from close advisors, in order to perform his constitutional functions;

(c) to protect the integrity of its law enforcement function which would be undermined by revelation of prosecution strategies, legal analysis, potential witnesses, and settlement considerations; and

(d) to protect presidential privacy.

(3) To gain access to information congressional committees may—

(a) initiate formal investigations;

(b) issue subpoenas to compel production of documents and testimony;

(c) find an executive officer in contempt and seek a criminal indictment of the official;

(d) threaten and withhold appropriations for executive programs;

(e) fail to act on presidential legislative initiatives and on nominations;

(f) call for the appointment of an independent counsel;

(g) file a civil suit to enforce compliance with subpoenas; and

(h) threaten and seek impeachment of the official refusing to comply.

(4) The President may resist by—

(a) delaying compliance until the congressional need is ended;

(b) order subpoenaed officers to claim privilege;

(c) direct the United States attorney not to bring a contempt before a grand jury;

(d) challenge an indictment on appropriate privilege grounds;

(e) negotiate a disclosure that does the least damage to executive interests; and

(f) utilize the ''bully pulpit'' of the presidency to convince the public that Congress is overreaching.

C. The role of the courts

The courts have been exceedingly reluctant to become involved in resolving the merits of presidential privilege claims against information demands of the coordinate branches. The Supreme Court has recognized the constitutional basis for a qualified claim of privilege for presidential communications but in that instance held that the privilege was outweighed by the need of the judiciary for the information in a criminal prosecution. Most recently, a federal appeals court made the most extensive examination to date of the nature, scope and operation of the privilege, determining how far down the line of command from the President the presidential privilege extends, and what kind of demonstration of need must be shown to justify release of materials that qualify for such a privilege.

(1) *United States* v. *Reynolds,* 345 U.S. 1 (1952) (recognition of absolute privilege to withhold national security matters from a private party in a civil case).

(2) *Nixon* v. *Sirica,* 487 F.2d 700 (D.C. Cir. 1973) (presumptive privilege for confidential presidential conversations overcome by showing a need for evidence by grand jury).

(3) *Senate Select Committee* v. *Nixon,* 498 F.2d 725 (D.C. Cir. 1974) (upholding presidential claim of privilege because committee had failed to demonstrate that sought-after information was ''critical'' to its function, emphasizing that the committee's investigation substantially overlapped that of the House impeachment committee which already has access to the subject tapes).

(4) *United States* v. *Nixon,* 418 U.S. 683 (1974) (recognizing constitutional basis of a qualified claim of privilege but holding that it was outweighed by need of judiciary for the information in a criminal prosecution).

(5) *United States* v. *AT&T,* 551 F.2d 384 (D.C. Cir. 1976); 567 F.2d 121 (D.C. Cir. 1977 (court twice declines to decide merits, ordering further attempts at resolution by the parties).

(6) *United States* v. *House of Representatives,* 556 F. Supp. 150 (D.D.C. 1983) (dismissing suit to enjoin certification to U.S. Attorney of contempt of Congress citation).

(7) *In re Sealed Case,* 116 F.3d 550 (D.C. Cir. 1997) (holding that presidential communications privilege extended to communications authored by or solicited and received by presidential advisers which involved information regarding governmental operations that ultimately call for direct decision-making by the President, but that the independent counsel had overcome the privilege by a demonstration that each discrete group of subpoenaed materials likely contained important evidence, and that the evidence was not available with due diligence elsewhere).

D. History of and process for Presidential invocations of privilege

(1) Early Confrontations

(a) Washington

(b) Adams

(c) Jefferson

(d) Jackson

(2) Expansion of the Privilege

(a) Truman

(b) Eisenhower

(3) Watergate and Post-Watergate Confrontations

(a) Nixon

i. Assertion of privilege at direction of President by Attorney General Mitchell to withhold FBI reports (1970)

ii. Assertion of privileges by Secretary of State Roger at direction of President to withhold information on military assistance programs (1971)

iii. Claim of privilege asserted to prevent White House advisor from testifying on IT&T settlement during consideration of Kleindienst nomination for Attorney General (1972)

iv. Claim of privilege as Watergate tapes (1973)

(b) Ford and Carter

i. President Ford directed Secretary of State Kissinger to withhold documents relating to State Department recommendations to National Security Council to conduct covert activities (1975)

ii. President Carter directed Energy Secretary Duncan to claim privilege for documents relating to development and implementation of a policy to impose a petroleum import fees (1980)

(c) Reagan

i. James Watt/Canadian Land Leases (1981–1982)

ii. Ann Burford/EPA Superfund Enforcement (1982–1983)

William Rehnquist nomination/OLC Memos (1986)

(d) Bush

i. President Bush ordered Defense Secretary Cheney not to comply with a subpoena for a document related to a subcommittee's investigation of cost overruns in a Navy aircraft program (1991)

(e) Clinton

i. Kennedy Notes (1995) (executive privilege initially raised but never formally asserted)

ii. White House Counsel Jack Quinn/Travelgate (1996)

iii. FBI–DEA Drug Enforcement Memo (1996)

iv. Haiti/Political Assassinations Documents (1996)

v. *In re grand Jury Subpoena Duces Tecum,* 112 F.3d 910 (8th Cir. 1997), *cert denied,* 117 S.Ct. 2482 (1997) (executive privilege claimed and then withdrawn at district court. Appeal court rejected applicability of common interest doctrine to communications with White House counsel's office attorneys and private attorneys for the First Lady)

vi. *In re Sealed Case,* 121 F.3d 729 (D.C. Cir. 1997) (Espy case) (executive privilege asserted but overcome with respect to documents revealing false statements)

(4) The Process for Presidential Invocations of Privilege

(a) Eisenhower—Broad authority given to Executive Branch officers and employees to claim presidential privilege in the face of congressional information demands.

(b) Kennedy and Johnson—Informal agreements with Congress that privilege would only be invoked by the President himself.

(c) Nixon—Established first formal procedure for invocation of privilege: agency head advises Attorney General of potential claim. If both agree on need to invoke privilege, the Counsel to the President is informed. If President approves, the agency head informs Congress.

(d) Reagan—Memorandum to all department and agency heads of November 4, 1982. No invocation without presidential authorization. Pinpoints national security, deliberative communications that form part of the decisionmaking process, and other information important to discharge of Executive Branch constitutional responsibilities, as subject to privilege. If the head of an agency, with the advise of agency counsel, decides that a substantial question is raised by a congressional demand, the Attorney General, through the Office of Legal Counsel, and the White House Counsel's Office, to be promptly notified and consulted. If one or more of the presidential advisors deemed the issue substantial, the President is informed and decides and the decision is communicated to by the agency head to the Congress.

(e) Clinton—Memorandum of September 28, 1994, from White House Counsel Lloyd Cutler to all department and agency general counsels modified the Reagan policy by requiring the agency head to directly notify the White House Counsel of any congressional request for ''any document created in the White House . . . or in a department or agency, that contains deliberations of, or advice to or from, the White House'' which may raise privilege issues. The White House Counsel is to seek an accommodation and if that does not succeed, he is to consult of the Attorney General to determine whether to recommend invocation of privilege to the President. The President than determines whether to claim privilege, which is then communicated to the Congress by the White House Counsel.

III. IMPLICATIONS OF IN RE SEALED CASE FOR CONGRESSIONAL INVESTIGATIONS

A. The court distinguished between a ''presidential communications privilege'' which is constitutionally based and applies only to direct presidential decisionmaking and which may be overcome by a substantial showing that the subpoenaed materials contain important evidence, and that the evidence is not available elsewhere; and ''the deliberative process privilege,'' which is a common law privilege that applies to executive officials generally and whose negation by courts or congressional committees is subject to less demanding scrutiny, and ''disappears altogether when there is any reason to believe government misconduct occurred.''

(1) Court's limitation of communications privilege to ''direct presidential decision making,'' and utilizing President's need for information to exercise his appointment and removal power as its example in the decision, may indicated that only core presidential powers are within the protection of the privilege. thus decisions vested in an agency by Congress, such as rulemaking, environmental policy, or procurement, which do not implicate foreign affairs, military or national security functions would not be covered.

(2) Court's recognition of the deliberative process privilege as a common law privilege when claimed by executive department and agency official's, which is easily overcome, and which ''disappears'' upon the reasonable belief by an investigating body that government misconduct has occurred, may severely limit the common law claims of agencies against congressional investigative demands. A demonstration of need of a jurisdictional committee would appear to be sufficient, and a plausible showing of fraud waste, abuse or maladministration would be conclusive. Moreover, the diminished status of common law claims would certainly apply to others, such as the attorney-client and work product privileges.

(3) The *In re Sealed Case* Court's intent was to limit how afar down the chain of command the cloak of the President's communication privilege could extend. However, the case involved only White House officers and employees tasked (or sub-tasked) to advise the President about the Espy matter. It did not involve department or agency officers or employees. The question left open is whether, and how far, the privilege would extend if the President seeks the advice of a cabinet member. If the rationale of the court is in fact to limit the breath of the privilege, then much will depend on how future courts construe the term ''direct presidential decisionmaking.'' If it is limited to so-called ''core'' presidential prerogatives decisions which Congress has committed by law solely to the President. it will not serve to cloak the assistance an agency head gets from his subordinates if it involves a non-core function. Example: communications between the Environmental Protection Agency (EPA) and the White House with respect to the final shape of its Clear Air Act rule. Environmental rulemaking is committed by law to the Administrator of EPA and thus there is no ''direct'' decisionmaking required by the President.

(4) The *In re Sealed Case* court expressly reserved the question whether the same balancing test (substantial showing that materials contain important evidence and evidence is not available with due diligence elsewhere) applied to determine if a grand jury subpoena overcame privilege claim would also apply to congressional compulsory process. It is significant, however, that the court found that independent counsel had met his burden and ordered production of all withheld documents that contained evidence of false statements.

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

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

The gentleman has just brought up President Reagan. Of course, everyone knows he was my hero and what a great President he was, and we can all be so proud of what he accomplished on a bipartisan basis, working with a Democrat-controlled Congress and vetoing fewer bills than any other President I remember, because he taught me and others the art of compromise, the fact you could not have it all your own way and that to accomplish something you had to work together. That was Ronald Reagan.

Here is a letter that appeared on May 4, 1998 in the Washington Post, a letter to the editor.

PRESIDENT REAGAN DID NOT INVOKE EXECUTIVE PRIVILEGE

In the April 5 Outlook section, Stephen E. Ambrose wrote that in the Iran-contra case the Reagan administration ''dared'' to withhold evidence from congressional committees and/or a special prosecutor and to invoke the doctrine of executive privilege. His statement is wrong.

In November 1986, when the Reagan White House voluntarily disclosed the so-called diversion of funds from the Iranian arms sales to support the Nicaraguan Democratic Resistance, President Reagan called for the appointment of an independent counsel, pledged cooperation with the independent counsel and congressional committees, and stated that he would not assert the attorney-client privilege and executive privilege with respect to the Iran-contra matter. The Reagan White House honored that pledge.

The only controversy I recall, as White House counsel from March 1987 through the end of the Reagan administration, was that the White House initially rejected suggestions that the select committees be provided a ''computer dump'' of all electronic mail generated by certain former senior National Security Council officials, whether or not the electronic messages were relevant to the investigation. The committees' computer consultant believed that such a ''dump'' might retrieve electronic mail previously deleted. That controversy was resolved by the Reagan White House's directing its computer consultant to create a program to retrieve any deleted electronic mail generated by those NSC officials. The relevant material produced by that search was produced to Congress and to the independent counsel.

I also am unaware of any serious suggestion that the Reagan White House ''dared'' to withhold evidence from congressional committees or the independent counsel. When, during the 1989 criminal trial of Oliver North, seven documents were introduced that allegedly had not been produced in 1987 to the congressional committees, this matter was investigated by both Congress and the independent counsel. The simple explanations were human error (one NSC file with three relevant documents inadvertently was not searched in 1987, and three other documents apparently were overlooked by FBI agents working for the independent counsel who searched hundreds of sensitive NSC files), confusion (the White House had a signed receipt for one document that Congress could not find two years later) and new searches had yielded new material (Mr. North obtained discovery of executive branch documents broader in scope than that agreed to by Congress and the independent counsel which required White House files to be searched yet again after the congressional investigation had ended).

The far more important points are (1) that the Reagan White House never asserted executive privilege and voluntarily produced to Congress and to the independent counsel many documents that were far more interesting and potentially damaging to President Reagan than the seven documents introduced at the North trial and (2) that none of those seven documents challenged the president's repeated assertion that he was unaware of the diversion of funds from the Iranian arms sales to the Nicaraguan Democratic Resistance.

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Alexandria.

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''President Reagan did not invoke executive privilege.'' Goes on to site that, ''In November of 1986, when the Reagan White House voluntarily disclosed the so-called diversions of funds from the Iranian arms sales to support the Nicaraguan democratic resistance,'' which by the way we should have been supporting because we stopped communism dead in its tracks in this hemisphere, ''to support the Nicaraguan democratic resistance, President Reagan called for the appointment of an independent counsel himself, pledged cooperation with the independent counsel and congressional committees, and stated that he would not assert the attorney-client privilege and executive privilege with respect to the Iran Contra,'' and I will supply that, Mr. Speaker, for the RECORD.

The gentleman has gone on at length to say that he does not know what we are after. Well, let me tell the gentleman that what we are after, and

first of all, let us say who we are, we are the American people, the American people want the truth. The bill he is referring to, the executive privilege bill, let me just go back and repeat something I said in my opening remarks.

Lloyd N. Cutler, who was special counsel to President Carter, and one of the most respected lawyers in this town, in a memorandum to the general counsels in 1994 of all executive departments and agencies wrote, ''In circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege either in judicial proceedings or in congressional investigations and hearings.''

Now, that is one of the whereas's. Look at the next whereas. It says, ''Whereas President Clinton is the first President since President Nixon and the second in the history of the United States to withhold information under claims of executive privilege,'' and it goes on.

Now, the gentleman has said he is not sure what we are after. Let me just read what we are after in the resolve of this legislation. It says: ''Resolved, that it is the sense of this Congress.'' And the gentleman is right, it is only a sense of Congress. Perhaps we should bring something that has more teeth to it, but this is a sense of Congress, meaning this is how this Congress feels.

''It is the sense of the House of Representatives that in the interest of full disclosure, consistent with principles of openness in government operations, all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, should be immediately made publicly available.''

Now, my good friend the gentleman from Massachusetts (Mr. MOAKLEY) is saying we cannot do that, that the President has the right to keep that closed. Yes, he does. But is he not the President of the United States of America? What has he to hide? Why can he not just come out here, come into this well, as a matter of fact, and tell the American people? Instead, all he says is, well, there is no evidence. He did not say he did not do this or he did not do that. He simply says there is no evidence that I did this or that.

So I do not know if we should get into this until we really get into the debate on the resolution, but the truth of the matter is we should bring this to the floor, and we should have an intelligent, honest and sincere debate, without getting upset with each other about getting the truth out on this issue.

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

Mr. SOLOMON. I yield to the gentleman from Texas, the majority whip and sponsor of the executive privilege legislation.

Mr. DELAY. Mr. Speaker, I appreciate the chairman yielding, and I ran up here to answer the question why we are doing this.

In my mind, and from my perspective, because I have one of the resolutions in this rule, the reason we are doing this is this has been 4½, almost 5 years; 4½, almost 5 years of the American people not being able to get to the truth. And the reason they have not been able to get to the truth is that the President of the United States has used executive privilege. He has hidden behind his lawyers, he has hidden behind the courts, he has hidden behind hiding documents, documents are slow to come, they are redacted when they come, time and time again.

We know what the strategy here is, and the strategy is to get past the next election. And now we find, if we look at what has happened in the other body and what has happened in this body, some in the party on the other side of the aisle are participating in this process of dragging their feet, using procedures to hide behind, to make sure that the American people do not get to the truth.

It is time. It is about time that this House starts debating and looking at what has been going on for 4½ years, and that is the reason that we brought this rule to the floor, and that is the reason that I want to present my resolution to the body.

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

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume, and I thank my dear friend, the majority whip, for the explanation, but all I am doing is restating what appeared in Roll Call that said the Republicans said this was retaliation for the House Democrats' action on the floor and this is war.

Now, my dear friend from New York, and he is my dear friend, brought up President Reagan first. I did not bring him up. And he may quote from the Washington Post saying that President Reagan never exerted executive privilege, but I think the Congressional Research Service, who did the study on it, is much more authority than The Washington Post, and it cites three separate and distinct times that the President exerted executive privilege.

And I say this because I know the gentleman from New York reveres President Reagan as an idol. And I just wanted to show him that if President Reagan thought it was proper to use executive privilege, then other Presidents probably followed his role.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise to congratulate my Republican colleagues on the speed with which they have brought these two resolutions to the floor of the House. Clearly, investigations of wrongdoing are serious matters and ones which this House ought to consider, to be very serious about, to debate thoroughly, and no one questions that. No one questions that in this body because it, in fact, is our responsibility as public officials.

Let me just mention to my colleagues that there are a number of issues, serious issues, which the Republican leadership in this House has stalled on, refused to bring to this floor. Now, as we are prepared to recess, to go off for the Memorial Day holiday, and we will leave here tomorrow afternoon, I join with the American people, with Americans across this country in wondering and conjecturing why this House has not addressed and voted on the critical issue of campaign finance reform.

The chairman of the Committee on Rules has cited various transgressions of campaign financing. If that is the case, why does this body not have the time to vote to fix up a broken-down campaign finance system? If we are genuine about wanting to reform that system and to prevent transgressions, then we would be voting on that issue today.

Why does the Republican leadership not bring up the Patient Bill of Rights to this floor with equal speed? Millions of Americans are crying out for protection from unscrupulous health insurance companies, and every single day patients are denied, they are denied, the information and the health care that they have paid their insurance companies to give out to them.

What the American people support is congressional action to protect the doctor's ability to make medical decisions along with patients without interference from insurance companies, bureaucrats and accountants. Why has that bill not been brought to this House when there is tremendous bipartisan support for that legislation in this body? That is what we should be voting on today.

We have other health issues to debate. My Breast Cancer Patient Protection Act has 218 votes, enough to pass this House. This would say that women cannot be treated as outpatients for a mastectomy. Women today in this country are going home less than 24 hours after a mastectomy, with drainage tubes, groggy from anesthesia. We have the votes in this House to pass that bill, and they refuse to allow it to be brought to the floor. That is what we should be passing today in this body.

Why are we not doing something about child care legislation so that working families today will have the opportunity to go to work but to feel that they have affordable, safe child care in which their kids can thrive and be ready for the future?

Why have we not done anything about education and passing a modernization bill that says that what we are going to do is to make class sizes smaller; have better and tougher standards? Why can we not have education legislation in this House that, in fact, says let us reduce the size of our classes? Let us make it a better atmosphere, with tougher standards for more

opportunity and a better environment for our kids to learn? That is what we should be debating in this House today. That is what we should be passing on. That is what parents are concerned about, and rightly so.

And, in fact, why are we not debating in this House tobacco legislation? They are doing that in the other body today. Why do we not want to prevent underage kids from being able to smoke and a tobacco industry that has targeted 12 years old? An R. J. Reynolds report in 1984 says that 12 years old are replacement smokers. They are the new revenue stream.

Three thousand of our kids take up smoking every single day; 1,000 of them will die from a tobacco-related illness. That is what this body ought to be debating, is how we prevent our children from smoking and how we prevent the tobacco industry from targeting our young people. That is what our obligation is. That is what our responsibility is.

But this House is too busy. This House is too busy to consider all of this legislation. Let me just say that these resolutions have been brought up in an instant. That is the prerogative of the majority in this body, to bring up legislation, to schedule it, to get it passed. The majority in this body has decided to bring up an investigation.

And we should investigate. Again, I said at the outset no one questions our need to investigate. But the American people are crying out for a Congress, for a House of Representatives that says do something about my living standard, do something about my ability to get my kids to school, do something about my health insurance and my retirement security, do something about preventing my kids from using tobacco and illness and potentially death. That is what our obligation is here today. We should take it seriously and be true public servants.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume, and I will try to expedite matters, because I know there are some church services that are going to be starting soon.

Before yielding time to the majority whip, I would like to say that I wish the same people who come to this floor and criticize tobacco would at the same time take this floor in outrage, in outrage, over the illegal use of marijuana and other drugs that are literally killing, killing our young children today. Think about that, folks, because that is ten times more important than tobacco.

The gentlewoman from Connecticut just spoke about campaign finance transgressions that we are bringing up, and, yes, we are bringing it up. We will be debating today campaign finance reform on this floor and for several days to come, and it will be the fairest and most comprehensive debate ever held on this floor on campaign finance reform or probably anything else. But before we start debating on campaign finance reform, we want to find out why existing campaign laws have been criminally broken.

Should we not wonder why these existing laws have been broken? That is what this debate is all about today.

Mr. Speaker, I yield what time he may consume to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, let me just say, in evaluating what we just witnessed from the gentlewoman from Connecticut, that I appreciate her passion for the issues that she thinks are important that we should bring to the floor.

□ 1200

And we will carry out our obligations. Our committees are working. They are putting out legislation. We marked up a budget just this week. We will have the budget on the floor in a couple of weeks. Our appropriations process is working. The House is doing the people's business.

But what we are seeing by what we just witnessed was an effort, a concerted effort, by Democrats of this House to change the subject. They do not want to talk about this subject. They will do anything to change the subject. They are very upset that we are bringing this to the floor and saying, what is the reason for bringing this to the floor?

I say to my good friend, and I do have the utmost respect for the ranking member of the Committee on Rules, that when he cited that President Reagan invoked executive privilege three times, he is right, but mostly for national security reasons. But what he did not invoke executive privilege for was to withhold information under claims of executive privilege from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House. That is what we are talking about here.

Another reason we want to bring this resolution to the floor, and I hope Members will vote for the rule, is that the President is hiding behind the courts, as I said earlier, and he knows very well that the courts are not going to uphold his claim of executive privilege to withhold information of personal wrongdoing. But if he engages in enough appeals process, we might get past November's election and he will think he will be home free because he will have only 2 years left of his term.

But we want the next court that hears the appeal of the President's executive privilege claim to know how the people's House feel about executive privilege, and that is the reason I am bringing my resolution.

The next court could be the Court of Appeals or the Supreme Court. But they ought to know how the people's House feels about a President that invokes executive privilege for himself, the First Lady and his staff in order to withhold information from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House.

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

I would say to my good friend, there are church services starting. We need to determine whether or not there is going to be a vote. So I will not entertain any other speakers besides myself to briefly close, if the gentleman would like to yield back his time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to make one statement.

My dear friend, the Majority Whip, said that President Reagan used executive privilege because of national defense things. Well, the three occasions I have, and maybe the gentleman from Texas (Mr. DELAY) has others, but one time he used it because of James Watts' connection with the Canadian land leases, which is not national defense. Another one was with superfund enforcement, which was not national security. And the other one was with the William Rehnquist nomination.

Maybe he did use some other national security, but these were the three I was referring to.

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

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of the time.

Let me again just say that the rule we are debating here will bring to the floor in a few minutes the DeLay resolution, which urges the President to immediately make public any claims of executive privilege and documentation or records pertaining to them so that the American people can know.

My own resolution will follow that, which urges the President that he should use all legal means to compel all people who left the country or have taken the fifth, many of them are his associates or friends or friends of friends, to return to this country and to honestly come forth and let the American people know what is going on.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE CONCERNING PRESIDENT'S ASSERTIONS OF EXECUTIVE PRIVILEGE

Mr. ARMEY. Mr. Speaker, pursuant to House resolution 436, I call up the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive order, and I ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 432 is as follows:

H. RES 432

Whereas a unanimous Supreme Court held in United States v. Nixon that "[a]bsent a claim of need to protect military, diplomatic, or sensitive national security secrets,

we find it difficult to accept the argument that even the very important interest in confidentiality of Presidential communications is significantly diminished by production of such material'' that is essential to the enforcement of criminal statutes (418 U.S. 683, 706 (1974));

Whereas during the Watergate investigation, the Supreme Court unanimously held in United States v. Nixon that the judicial need for the tapes of President Nixon ''shown by a demonstrated, specific need for evidence in a pending criminal trial'' outweighed the President's ''generalized interest in confidentiality. . .'' (418 U.S. 683, 713 (1974));

Whereas the Supreme Court further held in United States v. Nixon that ''neither the doctrine of separation of powers, nor the need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances'' (418 U.S. 683, 706 (1974));

Whereas executive privilege is qualified, not absolute, and should ''never serve as a means of shielding information regarding governmental operations that do not call ultimately for direct decisionmaking by the President'' (In re Sealed Case, 116 F.3d 550 (D.C. Cir. 1997), reissued in unredacted form, 121 F.3d 729, 752 (D.C. Cir. 1997));

Whereas on September 28, 1994, Special Counsel to the President Lloyd N. Cutler, in a memorandum to the general counsels of all executive departments and agencies, wrote, ''[i]n circumstances involving communications relating to investigations of personal wrongdoing by Government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings'';

Whereas President Clinton is the first President since President Nixon (and the second in the history of the United States) to withhold information, under claims of executive privilege, from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House;

Whereas the President's assertions of executive privilege have recently been denied by a United States district court;

Whereas in January 1998, President Clinton said that the ''American people have a right to get answers'' regarding certain matters being investigated by the Office of the Independent Counsel;

Whereas President Clinton has promised to give ''as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations''; and

Whereas the people of the United States and their duly elected representatives have a right to judge for themselves the merits or demerits of the President's claim of executive privilege: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that, in the interests of full disclosure consistent with principles of openness in governmental operations, all records or documents (including legal memoranda, briefs, and motions) relating to any claims of executive privilege asserted by the President should be immediately made publicly available.

The SPEAKER pro tempore. Pursuant to House Resolution 436, the gentleman from Texas (Mr. ARMEY) and a Member opposed each will control 30 minutes.

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

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

Mr. Speaker, I want to personally thank the gentleman from Texas (Mr. DELAY) for introducing this resolution. The resolution is very simple. It simply says that all documentation related to the White House claims of executive privilege should be made public.

Mr. Speaker, this is a serious debate. It is a serious discussion. And really what we are trying to sort out here needs to be focused on for just one moment.

There is, despite all of the stonewalling, despite all of the tardiness, slowness, failed memories, inability to find people, secrecy, there is ample evidence that one can read in the Nation's press, and there has been for some time ample evidence, even as it relates to millions of dollars of returned campaign contributions after the last election that were admittedly returned because they were subsequent to the elections discovered to have been illegal contributions.

So that everybody in America must deal with a very serious question. And really we have two questions, one coming mostly from this side of the aisle, one coming from the other side of the aisle. We are saying that, given that people in highly elected office and positions of public trust must be honest and honorable beyond any shadow of a doubt and the interest of the security, national and domestic, of this Nation, that it is the Congress' responsibility to find out the truth about illegal activities, violations of law by people that are, in fact, in these highest positions of trust.

The other side of the aisle, as we just heard just a moment ago, is arguing that there is some possibility that the system might have corrupted some people and, therefore, we must change the system and they are arguing that the more important and more immediate business is to get on with changing the system.

I want to make a point here, Mr. Speaker, and I want to make it as emphatically as I can. When dealing with the choice of how do we prioritize the actions by the Congress of the United States relative to, one, the question of discerning the truth about the honesty, honor and integrity of people in highly elected offices, especially with respect to the manner in which they have acquired those offices; or, two, changing the rules of protocol and law that govern the financing of campaigns, that the latter must be clearly understood to be the matter of lesser priority.

Stated another way, if this Congress is incapable of recognizing, if the press is incapable of recognizing, if the American people are incapable of recognizing, and if the White House is incapable of recognizing that all matters of doubt regarding the honesty, the integrity, the legality of people in the highest elected offices of this land is a matter of crucial and utmost concern that must be given priority over the manners in which the laws are written, that they will therefore then, having not addressed, as my colleagues equally feel, to continue violating as they violated the previous laws, then surely we are lost.

There are serious questions related to the movement of money in campaigns, and no doubt we will address those in due time. But there can be no question of money that can be allowed to take precedence over questions of honesty, integrity, fidelity, duty and honor in those people that we would trust with dominion over the lives of our children's future.

Mr. Speaker, I yield the remainder of the time to the gentleman from Texas (Mr. DELAY); and I ask unanimous consent that he be able to yield time as he sees fit.

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

There was no objection.

The SPEAKER pro tempore. Does the gentleman from Michigan (Mr. CONYERS) claim the 30 minutes in opposition?

Mr. CONYERS. Yes, Mr. Speaker, I do.

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

Mr. CONYERS. Mr. Speaker, this is a bit of an amazing short-sightedness on the part of Republican leadership in advancing the incredibly partisan resolutions like the one being sponsored by the gentleman from Texas (Mr. DELAY) which, if actually passed, might do lasting damage to the institution of the presidency.

This resolution, if I read it correctly, seeks to have the President divulge all records and documents relating to any assertion of executive privilege to where? The Congress? To the press? To the public?

The administration has already joined with news organizations in seeking to make public both the legal papers filed by his lawyers and the judge's decisions concerning executive privilege. Questions about sealing such proceedings and preventing public access is, my colleagues, a question for the courts. It is one that our judicial system decides by hearings and carefully balancing the competing interests.

Never in the history of the Congress has the Congress said we ought to take that over and ask you, Mr. President, to just cooperate with us.

This is a meaningless resolution. The administration cannot do anything about this. These questions are court questions, questions already residing in the judiciary for determination. And if the gentleman from Texas (Mr. DELAY) were concerned about this issue, instead of attempting to politicize it, this resolution would be directed to the courts, not to ourselves or to the President of the United States.

But in reading it, it goes further and demands that all documents concerning the invocations of executive privilege now be made public. Why, this goes beyond Kenneth Starr and the independent counsel.

Just who do we think we are? If the demands are to be taken seriously, that would include confidential recommendations from the President's closest advisors. There is no question that these kinds of recommendations deserve confidential treatment.

The supporters of this resolution, like my friend the chairman, the gentleman from Indiana (Mr. BURTON), have a hard time recognizing what should and what should not be released to the public.

□ 1215

Any President of either party is entitled to confidential advice concerning the invocation of executive privilege. Elementary. The Reagan administration invoked executive privilege quite frequently. The Bush administration withheld documents and witnesses from congressional committees on numerous occasions based on concerns about executive privilege.

Republicans have never sought to pierce the confidentiality of the advice given to those Presidents, and I am afraid that they only seek to do so now because of their partisan intent to discredit the President of the United States.

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

Mr. DELAY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this is very serious business. As I said weeks ago, and I wish my voice was clearer so that the American people would hear from me in a very clear way, I think this is very serious business. This is not partisan politics.

The gentleman says, Mr. Speaker, that we are attempting to inflict lasting damage to the institution of the Presidency. We think this President has already inflicted that damage on the office of the Presidency by claiming executive privilege to cover up information of a personal wrongdoing or possible crimes in the White House, by stonewalling the American people when, on the one hand, months ago, the President said, ''I will tell the American people the truth in a very expeditious manner, in a timely manner'', and yet has hid behind lawyers and courts and attack dogs.

I think this is very serious. I rise today because I believe the American people have a right to know the truth. That is what this is all about. The American people have a right to know the truth.

Mr. Speaker, the list is very long and far from distinguished: Whitewater; the Travel Office Affair; the collection of classified FBI files; foreign campaign contributions to the DNC, the Democratic National Committee; Webster Hubbell; the appointment of numerous Independent Counsels to investigate Cabinet members; the transfer of sensitive missile technology to the Communist Chinese.

Do the American people know the full truth about what happened in even one of these scandals after 4½ years? The answer, as we all too well know, is a resounding no.

The lengths to which this administration has gone to hide from the light of day are breathtaking. Sadly, congressional Democrats have lent the administration a helping hand every misguided step of the way. They have made sure that every hearing, every investigation is met with a coordinated campaign of misinformation and stonewalling.

The gentleman from Indiana (Mr. BURTON), chairman; the gentleman from Iowa (Mr. LEACH), chairman; the gentleman from Pennsylvania (Mr. CLINGER), chairman; Chairman Senator THOMPSON, Chairman Senator D'AMATO, Special Counsel Starr, FBI Director Freeh, each has been the victim of relentless personal attacks and slander from this administration, the administration's hit men and Democrats from Congress.

Why? Because the one thing the Democrats fear the most is that the American people will find out the truth. They will go to any length to stop that from happening. The only strategy left to them is to draw these investigations out as long as possible so that they will never have to answer these questions or any questions. The only people President Clinton and the Democrats have to blame for these investigations are themselves.

The Democrats have chosen a new tool, executive privilege. Mr. Speaker, executive privilege is an essential constitutional safeguard in my mind. It is vital to the protection of our national security. Almost every President since George Washington has made use of executive privilege in one way or another.

But this administration is the first since President Nixon and only the second in the history of our country, only the second presidency in the history of our country to withhold information under claims of executive privilege from a Grand Jury investigating allegations of personal wrongdoing and possible crimes in the White House.

President Clinton is obliged to claim executive privilege if he is doing so to protect national security. But President Clinton has repeatedly claimed executive privilege to shield himself, the First Lady, and some of his aides from testifying in a criminal investigation.

Nearly 25 years ago, in the United States versus Nixon, the Supreme Court wrote about President Nixon's use of executive privilege under similar circumstances. I quote:

> To read the constitutional powers of the President as providing an absolute privilege against subpoena essential to enforcement of criminal statutes on no more than a generalized claim of the public interests and confidentiality of nonmilitary and nondiplomatic discussions would upset the constitutional balance of a workable government.

The Supreme Court. The Supreme Court could not have been more clear. Executive privilege may be used only to protect national security, not to shield information in a criminal proceeding.

Less than 4 years ago, the President's own special counsel, Lloyd Cutler, had this to say, and I quote:

> In circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings.

That is President Clinton's own Special Counsel that wrote that.

The New York Times, a surprising new member of the right-wing partisan conspiracy, had this to say about the President's use of executive privilege:

> To invoke that privilege in a broad and self-serving way, as the Clinton White House has done to shield itself from Kenneth Starr's inquiry, is to abuse it.
>
> But this White House is not easily embarrassed. It has tried to invoke the hallowed attorney/client privilege even when attorneys are servants of the public, not the President's private lawyers.
>
> All this legal inventiveness carries the implicit assertion that Mr. Clinton is somehow above the law and thus raises the kind of constitutional questions that ought to be exposed to public debate.

The New York Times.

Mr. Speaker, that is all we are asking here today, that the President be honest with the American people about his use of executive privilege. Like the American people, I want to believe President Clinton. But what are reasonable people to believe when the President will not even level with them?

We are not asking that the President tell us the substance of private conversations with his lawyers, although that would be nice. No, we are simply asking the President to be honest with the American people, with the people of the United States. Just be honest. Just be honest.

Mr. Speaker, I urge my friends and colleagues on the other side of the aisle to support this resolution and send a message to the Appeals Court. I urge you to go to the President and tell him, tell the American people what you are doing. It is so simple. If you have nothing to hide, come clean.

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

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, I do not question the sincerity of the motives of the gentleman who just spoke and the reasons behind his drafting and offering of this resolution.

If I could have the gentleman's attention, I would appreciate it.

I just wanted to engage the gentleman in a discussion of what seems to me to be a troubling set of implications from the way the ''Resolved'' clause in the gentleman's resolution has been prepared.

I do not want to misread it; and if I am, I would like to be corrected. If I am not, I think we have a very serious problem on our hands. The ''Resolved'' clause speaks to ''all records or documents relating to any claims of executive privilege'' and that they should be immediately made public.

I do not know the full scope of documents and materials that would be covered by this language. It seems to me entirely possible that they would extend to matters that had legitimate national security or classification constraints imposed upon them.

I understand the gentleman's concern that we do not want that to be used as a way of manipulating information, but let us stipulate for the moment that we could be embracing with this language some real national security information that is at least tangentially implicated in these assertions of executive privilege.

I hope it is not the gentleman's intention to suggest that that, willy-nilly, should be made public, but that is what that language implies.

Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. It is a very good question, and I appreciate the gentleman asking it.

First, let me answer it by saying this is a sense of Congress. This is not a binding law. This is expressing how the House feels about what the President has done in the executive privilege. That is number one.

Number two is, of course, we are not saying, reveal all documents, especially those documents that may undermine the national security of this country. There is precedent that would allow the President to claim executive privilege based upon national security. But we all know what the intent is here. We are not stopping the President from revealing the truth to the American people.

Mr. SKAGGS. Mr. Speaker, reclaiming my time, I appreciate the gentleman's answer. Whether this is sense of Congress or law, it seems to me we should be careful in its drafting and in its consequences.

I am afraid that the gentleman, in his sweeping desire to get at everything, has made no provision for what needs to be dealt with here in the eventuality that real national security information is covered by this language.

Mr. DELAY. Mr. Speaker, would the gentleman yield?

Mr. SKAGGS. Members have imposed a rule that prohibits amendments. We might be able to address this were it not for that constraint.

Mr. Speaker, I am glad to yield again.

Mr. DELAY. Mr. Speaker, the courts would not allow us to impose upon the President, even if this was a statute, impose upon the President the revealing of documents that would undermine national security. The gentleman is trying to change the subject. The subject is that, if the President wanted to reveal the truth to the American people, he could do so, and we want to send a message to the courts that are taking his appeal.

I am not trying to change the subject at all. I believe that when we are dealing with something as nuanced and delicate and as important as this interrelationship between the executive branch and the legitimate investigative responsibilities of the legislative branch, we ought to proceed with due care.

This seems to me to be, in its expansiveness, a little bit glib in the way it deals with a very, very important matter, and I think that the Members should take that seriously and not just dispense with it, because we know, of course, what this is really about.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, the previous speaker is a very close friend of mine. He is going to be retiring. He is a former Marine. So, naturally, I have great respect for him.

But he has a real disadvantage standing up here today because he is a lawyer. Sometimes lawyers get tied up in nitpicking things, and they do not look at it from a sincere point of view; not that he is not sincere, because he is, but sometimes because of their education in law, he is sort of misled.

I am glad to say I am not a lawyer. Having said that, I want the gentleman to look at it the way Joe Six-pack, the way my American constituents look at it from the Hudson Valley.

□ 1230

I think I do not want to know about all this nitpicking stuff. They wanted to know this. Read page 3 of the bill. It says, ''Whereas, in January 1998, President Clinton said,'' and this is a quote now of the President, ''the American people have a right to get answers'' regarding matters being investigated. That is the end of his quote.

Mr. Speaker, instead of openly answering the questions to Members of Congress, but more than that, to members of the press, who are out there trying to get the information for the public, he simply says time and time again, there is no evidence of that. He does not deny it, he says there is no evidence of that.

Well, we do not have to worry about that part of the resolve clause, about whether there are documents there dealing with national security. The gentleman knows, nobody stands up here more for national security than I do. I am blocking an encryption bill that would expose our ability to track terrorism, communists and people that would bring down this government. So do not come over here and say we have a question about national security. There is no evidence of that. We want the President to come forward and give the answers. I salute the gentleman.

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

Mr. SOLOMON. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, I am not questioning the gentleman's sincerity about taking national security issues seriously. Far be it from that. Contrary to what the gentleman is suggesting, I think we should adhere to and aspire to a particularly high standard of precision in the work of this body and not just say hey, ''Joe six-pack knows what we are talking about, don't not sweat the small stuff.'' I think we are here to pick some nits and make sure we are doing careful work.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I thank the gentleman, and I would say the American people want the answers. Mr. President, come forth and give them to them. He is capable of doing that. He can do that.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I would like to begin by telling the distinguished chairman of the Committee on Rules that I am very glad he is not a lawyer too, so we are in total agreement on that; but not being a lawyer, he may have some handicap in reading the decisions of the United States Supreme Court. Some of them you do not have to be a lawyer to understand.

The Supreme Court has said in the Nixon case, and I underline the ''Nixon'' case, how executive privilege should be asserted. It would be important for the proponents of this resolution to have studied that case. The proponent is proudly, I presume, not a lawyer as well.

It said in that decision that the courts, not the Congress, determine the question of whether an executive privilege can be asserted. So the gentleman from Texas either does not appreciate the decision that exists as current guidance on the subject, or perhaps it has not been brought to his attention that we cannot tell the court how it should handle itself.

I guess we can advise the President that he should release all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, and it should be made publicly available. Well, this is already in the courts.

There is not one word, with all respect to the patriotism of the gentlemen on that side of the aisle, about documents dealing with national security matters being excluded. Not a word.

I think what the gentleman from Colorado was pointing out was that if you really mean this, and, as the gentleman from Texas has said twice, this is a serious matter, you had better change this to make everyone understand that, of course, defense matters, secret matters, secrecy of documents, are not included. We should just understand that.

Well, I do not think we can just understand that, I would say to the gentlemen from the other side, whether you are lawyers or not lawyers, or whatever it is you might be. This is a flawed resolution, assuming you want to do what you said. You want to give the President some free advice. ''Give us everything you have got on executive privilege,'' which is already in the courts.

I do not think that the system is ready to work that way. Never in the history of the Congress have we ever had such a resolution put forward with reference to the President of the United States.

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

Mr. DELAY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the distinguished Chairman of the Republican Conference.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, the American people have entrusted the President of the United States with many exclusive privileges not available to the average person. Because of the travel demands that he bears as the leader of the free world, he has got the privilege of traveling across the world on Air Force One; because of his need for constant security as the leader of our government, he has the privilege of round-the-clock protection from the Secret Service, even after he leaves office; and because of the need for national security, he is entrusted with a special privilege, probably more sacred than any of these, and that is executive privilege.

Let us be perfectly clear, Mr. Speaker. The President has the right to claim executive privilege in matters of national security. But no one has the privilege of being above the law; not Members of this House, not Members of the other body, not even the Chief Executive of the United States of America. But it seems that this important privilege is being used to block the people's right to know on a much broader range of issues.

Mr. Speaker, I think there is a pattern developing in the Executive Branch. While reassuring the public that they are anxious to get to the truth, certain officials have consistently stood in the way of legitimate legal inquiries into activities of our government at the White House.

Just yesterday, in fact, a White House spokesman bluntly claimed that the administration has fully cooperated with Congressional questions about these very troubling technology transfers to China. It was a reassuring thing to hear, but it just was not true.

Congressional leaders from the Committee on National Security and from the Committee on International Relations have written the Secretary of Defense, the Secretary of State and the Director of the U.S. Arms Control Agency, and the chairman of the Committee on Intelligence wrote to the Secretary of Defense as well. Our Committee on Science, both Democrats and Republicans, have raised the issue of China with NASA. Even a letter sent to the President by the Speaker and the Majority Leader of the Senate has fallen on defense ears. To date, all of these requests have been met with either silence or reassurance. But all requests for information have been denied.

Mr. Speaker, it is time for the stonewall tactics to end and the cooperating to begin. Whether it is stalling on basic requests for information or invoking executive privilege, the result is the same; the American people are denied the right to know what is going on inside their White House. In the end, Mr. Speaker, this is what this fight is about, the American people's right to know what happens in their government.

This government does not belong to politicians in Washington D.C. This government belongs to the American people, and they have a right to know what happens in Washington, D.C. They have a right to know what is going on in their White House.

I think the stonewalling should end, and the cooperating and the truth needs to be discovered.

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

Mr. Speaker, I would like to bring to the attention of the gentleman from Texas, who has brought forth this resolution, a little bit of history about executive privilege and how it has operated.

In 1992, the White House refused to permit White House Counsel C. Boydon Gray and C. Nicholas Rostow of the National Security Council to testify before the House Committee on Banking and Financial Services concerning the allegations that the Bush Administration had attempted to conceal from Congress the extent of its assistance to Iraq prior to the Gulf War. That was an assertion of executive privilege.

In 1991, President Bush ordered Defense Secretary Cheney not to comply with a subpoena for a document related to a subcommittee's investigation of cost overruns in a Navy aircraft program. It came to the Committee on Government Operations.

During the administration of President Bush, in response to requests from the Committee on Government Operations, Vice President Quayle's Council on Competitiveness cited executive privilege in refusing to make public its contacts with companies affected by proposed regulations that it was charged with reviewing.

President Bush invoked executive privilege in refusing to respond to a subpoena issued by the House Committee on the Judiciary seeking an opinion written by the Department of Justice Office of Legal Counsel authorizing the FBI to snatch fugitives on foreign soil.

Again during the Bush Administration, Attorney General Thornburgh cited exclusive executive privilege in withholding hundreds of documents from the Committee on the Judiciary concerning the Justice Department's controversial purchase of a $180 million computer system.

In 1986, the Bush Administration even supported former President Nixon's claim of executive privilege which he asserted to prevent the National Archives from releasing the Nixon White House papers.

Again, President Reagan invoked executive privilege with respect to the controversies concerning Mr. James Watt and certain Canadian land leases, Anne Burford and the EPA Superfund enforcement in 1982, and Department of Justice memos concerning the nomination of Chief Justice William Rehnquist in 1986. So those were three other instances in 1981, 1982 and 1986 where there have been presidential assertions of executive privilege.

Now, there is a process in which we can go into court, but never before in my memory and my research have we ever put a special resolution on the floor asking the President to go far beyond specific material, but asking him that in the interest of full disclosure, consistent with the principles of openness in government, all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, should be immediately made publicly available.

That was never done in the numerous examples of the assertion of executive privilege under Republicans.

But, more than that, would you really want the President to do what you are asking for in the resolved clause? Would you really want all of these materials released to the public? I do not really think you mean what you are saying here. I think maybe you would like to get to some more arguments on executive privilege, which, by the way, are being handled in the court. But would you want this much information?

This goes far beyond anything that would ever be brought up in a court. It goes far beyond anything necessary for us to understand why the assertion of executive privilege is being made, and it is a matter being debated and resolved in the courts as we stand here in the well.

□ 1245

So I would just say in mustering the most benefit I can to explain the reason for House Resolution 432 is that perhaps the author went beyond what it is he really wanted to know and forgot that everything means everything, that all means all, that any means any, no exceptions, none.

I do not think anybody really would want that to happen. Therefore, it is my position that this resolution is fatally flawed.

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

Mr. DELAY. Mr. Speaker, I reserve the right to close, and I have no other

speakers, and I am working with the gentleman from Colorado on an amendment, so if the gentleman has no more speakers, I will close.

Mr. CONYERS. Mr. Speaker, I do have more speakers, so if the gentleman does not mind, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT), a distinguished member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, I thank my friend and colleague, the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

I think it is important to note, because we have heard the refrain today about the President setting himself above the law. Well, there is nowhere that I have heard or read or observed where this President is suggesting that he is above the law.

Mr. Speaker, to me and to I think most Americans, it is clear that the President feels he has a constitutional obligation to assert executive privilege where he feels it is necessary to secure the independence of the executive branch.

Now, some may or may not like that particular assertion, but it has been and will be tested, by the third branch of government, our courts, our judiciary. I believe that the American people have great confidence in our constitutional democracy, whether they be lawyers or whether they be Joe Six-pack, because ultimately, the Constitution of the United States is a document above viable democracy. It is about the separation of powers, and it is a document that has worked well for this Nation since its birth back in the late 1700s.

So the President is working within the confines of the Constitution, that great American document, that document that so many have fought for and died for and served in this Nation's military, including the Marine Corps. This is all about the United States Constitution and about constitutional democracy and about respect for each branch of government.

Mr. CONYERS. Mr. Speaker, I have no other speakers, and I reserve the balance of my time.

Mr. DELAY. Mr. Speaker, I have no other speakers, and I reserve the right to close.

REQUEST TO AMEND HOUSE RESOLUTION 432 OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I ask unanimous consent to add at the end of the resolving clause an amendment prepared by the gentleman from Colorado that states, ''Such public disclosure shall not extend to legitimate national security information.''

The SPEAKER pro tempore (Mr. LATOURETTE). The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of the resolved clause: ''Such public disclosure shall not extend to legitimate national security information.''

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

Mr. CONYERS. Mr. Speaker, reserving the right to object, I have not seen this amendment and I have no inclination to support it without having seen it, and so I object.

The SPEAKER pro tempore. Objection is heard.

Does the gentleman from Michigan wish to use additional time before the gentleman closes?

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

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

This is amazing, it is just amazing. The display of objections to the people's right to know the truth and the President's right to claim executive privilege that has been interpreted by the courts and not revealed any documents. But so be it.

The real intent of my resolution is to try to get the President of the United States to reveal information that has been withheld for all of these 4½ years in some cases, and information that the President is claiming executive privilege for.

The gentleman cited all of these claims by other Presidents. Not one of those cites that the gentleman listed has anything to do with claims of executive privilege involving allegations and information given to a grand jury on information of personal wrongdoing and possible crimes in the White House, not one of them. This President is only the second President after Nixon in the entire history of the country that has made those kinds of claims, and yet the gentleman still supports the President.

The gentleman says that the House of Representatives has no responsibility or authority to tell the courts what to do. Well, the gentleman and I have a very strong difference of opinion as to what the House of Representatives and the Congress of the United States is, its standing in the country, and particularly, its standing relative to the judiciary branch. We are not a subbranch of the judiciary.

Now, for years, almost 40 years, the majority of this House has allowed the judiciary to rule law across this country and this body has not asserted itself. But now, under a new majority, we think we hold an equal standing with the judiciary that the Constitution gives us every opportunity to send messages to the judiciary and indeed, this week, this House overwhelmingly voted to limit the jurisdiction of the judiciary when it came to early release of convicts for the reason of prison overcrowding.

Now, the gentleman must believe that we are subservient to the judiciary, but I do not, and this resolution is the sense of Congress that says such, and we are sending a message to the appeals courts that are hearing the case of this President of the United States bringing executive privilege.

Congress, under the Constitution, has about as much right and duty to address the issues of constitutional import as any other branch. Congress considers issues every day that implicate the Constitution. The courts are the final decisionmakers, as we learned in Marbury v. Madison. However, the court considers the views of coordinate branches, equal branches of government.

This resolution merely says that the President's reasons for asserting executive privilege should be made public. If the President wanted to talk, he should not hide behind the courts. That is the truth of what is going on here.

The D.C. Circuit Court of Appeals and the Supreme Court should know that this House believes that court proceedings regarding executive privilege should be open to the public, and we are going to take a vote in a moment to express ourselves to those courts.

But the bottom line here, Mr. Speaker, is we should not participate in strategies of stonewalling or keeping the American people away from the truth. The bottom line of what we are trying to do here is the fact that the American people have the right to know the truth and we are calling on the President of the United States to tell the American people the truth, and I urge adoption of my resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I stand in opposition to the adoption of House Resolution 432.

First, I would like to express my dismay at the way the Republican leadership brought this resolution to the floor. When the agenda was set for this week, the Rules Committee minority leaders were only given approximately five minutes notice to prepare for consideration of this proposed resolution. Furthermore, the Judiciary Committee, which also has probable jurisdiction on this matter, was not even given the opportunity to review its text. If House majority leadership wants to maintain any semblance of impartiality, I suggest that they resist the temptation to take political ''potholes'' at every opportunity.

Fellow colleagues, this resolution does nothing more than embroil Congress in a dispute that is more properly before an Article III Court.

I believe that almost every member of Congress agrees that an executive privilege exists. In its purest manifestation, it protects us from the divulgence of information which threatens our national security. The scope of this privilege is still somewhat of an unknown quantity. The Bush Administration invoked the privilege on several occasions, many of which did not involve national security.

Colleagues, we are not the Supreme Court. It is not our task to divine the meaning of the Constitution. A rejection of this resolution is a clear signal to the American people that this Congress still recognizes the concept of separation of powers.

I also object to this resolution because it does nothing but make a recommendation that the President, that he waive his executive privilege. This is a right to be asserted by the President, under advisement of his lawyer only. In a legislative body, how can we fail to recognize the impropriety of stepping on the toes of the attorney-client relationship. Remember all of us under the law are innocent until proven otherwise.

I ask my colleagues to oppose this resolution, in order to send a clear message to the American people that we understand and respect the role of the legislature in our democratic system.

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

The SPEAKER pro tempore. All time for debate has expired.

The resolution is considered read for amendment.

Pursuant to House Resolution 436, the previous question is ordered.

The question is on the resolution.

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

Mr. DELAY. 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 259, nays 157, answered ''present'' 6, not voting 11, as follows:

[Roll No. 176]

YEAS—259

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Mink
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—157

Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

ANSWERED ''PRESENT''—6

Barrett (WI)
Berman
Johnson (WI)
Kind (WI)
Obey
Rivers

NOT VOTING—11

Bateman
Crapo
Farr
Gonzalez
Gutierrez
Harman
Kaptur
McDermott
Meeks (NY)
Schumer
Torres

□ 1318

Mr. CUMMINGS, and Mr. DAVIS of Florida changed their vote from ''yea'' to ''nay.''

Messrs. PASCRELL, ABERCROMBIE, and STRICKLAND changed their vote from ''nay'' to ''yea.''

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.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman, one of his secretaries.

CALLING UPON PRESIDENT TO URGE FULL COOPERATION WITH CONGRESSIONAL INVESTIGATIONS

Mr. ARMEY. Mr. Speaker, pursuant to House Resolution 436, I call up the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 433 is as follows:

Whereas approximately 90 witnesses in the campaign finance investigation have either asserted a fifth amendment privilege or fled the country to avoid testifying in congressional investigations;

Whereas prominent among those who have asserted the fifth amendment privilege or fled the country to avoid testifying are former political appointees and friends of the President of the United States, such as former Associate Attorney General Webster Hubbell; former Department of Commerce political appointee John Huang; former Presidential trade commission appointee Charlie Trie; former senior Presidential aide Mark Middleton; longtime Presidential friends James and Mochtar Riady, as well as family, friends, and associates of some of these individuals;

Whereas when the Director of the Federal Bureau of Investigation Louis Freeh testified before the House Government Reform and Oversight Committee on December 9, 1997, he had the following exchange with the Chairman of the Committee:

Mr. Burton: Mr. Freeh, over 65 (at that time) people have invoked the Fifth Amendment or fled the country in the course of the committee's investigation. Have you ever experienced so many unavailable witnesses in any matter in which you have prosecuted or in which you have been involved?

Mr. Freeh: Actually, I have.

Mr. Burton: You have. Give me a run-down on that real quickly.

Mr. Freeh: I spent about 16 years doing organized crime cases in New York City, and many people were frequently unavailable.

Whereas never in the recent history of congressional investigations has Congress been faced with so many witnesses who have asserted fifth amendment privileges or fled the country to avoid testifying in a congressional investigation; and

Whereas the unavailability of witnesses has severely limited the public's right to know about campaign finance violations which occurred over the past several years and related matters: Now, therefore, be it

Resolved, That—

(1) the House of Representatives urges the President of the United States to immediately call upon his friends, former associates and appointees, and the associates of those individuals, who have asserted fifth amendment privileges or fled the country to avoid testifying in congressional investigations, to come forward and testify fully and truthfully before the relevant committees of Congress; and

(2) that the President of the United States should use all legal means at his disposal to compel people who have left the country to return and cooperate with the investigation.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to House Resolution 436, the gentleman from Texas (Mr. ARMEY) and a Member opposed, each will control 30 minutes.

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

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

This is just a simple and sincere resolution to resolve that the President of the United States should use all legal means at his disposal to compel people who have left the country or taken the Fifth Amendment to return and cooperate with the investigation.

Mr. Speaker, I would like to indulge myself in a quick reminiscence about one of my favorite situation comedies I saw on TV. Some of my colleagues may remember Archie Bunker. Archie Bunker was a conservative. He had a son-in-law that he affectionately called the ''meathead'' that was a liberal.

I remember in one of my favorite episodes of the show, Archie Bunker's son-in-law discovered that he had sneaked a few parts, spare parts home from work in his lunch box. And the son-in-law gave him a stern lecture on integrity and honesty and personal standards of conduct, and how he had to in fact rue and regret and apologize and atone for this grievous affront to all the principles we hold sacred.

And then just a few minutes later, Archie's daughter came in and exposed that the son-in-law had taken materials home from his office. The son-in-law, when confronted with this by Archie, responded with horror that even he, with all his virtue, could be corrupted by the institution.

It was, in fact, one of the greatest laugh lines of the evening, precisely because we all sat there and thought, pity the poor liberal, the more they feign moral outrage, the more they set themselves up to get stuck on their own stick.

Well, last year we were entertained all year long with all kind of expressions of piety and fidelity to the principles of individual integrity, openness, honesty, as the liberals in this body railed against the Speaker that he must step forward, reveal all documents, answer all questions and, in a word, come clean, because the Speaker of the House must be, beyond all shadow of doubt, a man of integrity.

Today, when we say to the President of the United States and all with whom he associates, come forward, come clean, present yourself, tell the truth, be open, release the documents, their response is, the system is corrupt. And before we ask any of these questions regarding who in the White House may or may not have violated the laws of the United States in their own short-sighted self-interest, what we hear from the other side is that it is we who are being irresponsible because we are not changing the system.

Let me say once more, the Nation will not forgive a Congress that believes that it is correct to change the rules and laws of finance, campaign finance, rather than to first discern who is or who is not obeying the law and bring to account those who do not obey the law. It does not take a great deal of understanding to know that matters of personal compliance, personal integrity, honesty and respect for the law are, in the longer run, more important than the law itself.

Mr. Speaker, again we must come to the floor of the House of Representatives with a resolution that simply says, let us get everybody together, present yourself and tell the truth. Certainly it is not beyond the normal expectation that we should expect the President of the United States to encourage by all means possible any persons with whom he has an association to do just that.

Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. SOLOMON), and I ask unanimous consent that he be able to yield the time as he sees fit.

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

There was no objection.

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

Mr. Speaker, since October 2 years ago I have been extremely concerned with allegations swirling around the White House, and I am not talking about personal or domestic scandals. Rather, I am talking about the compromising of America's national security and potential economic espionage.

Both of us on both sides of this aisle should be concerned about political/economic espionage because it costs thousands and thousands, if not hundreds of thousands of jobs in Members' districts and mine and all across America, political/economic espionage and national security breaches.

That is why I have brought this bill to the floor. If Members do not understand that, I would ask them to get a Central Intelligence Agency document which is unclassified, which states, ''Applicability of Space Launch Vehicle Technology to Ballistic Missiles.'' Take a look at it, because the technology we have been giving to China today can be so easily converted to intercontinental ballistic missiles. That is not me saying it; is our Central Intelligence Agency. Read it. That is how important this debate is on this issue right here today.

Dating back to my first letter trying to find out about John Huang, and Members all know who he is, and his connections to the President and senior members of his administration, we have faced nothing but contempt for legitimate congressional oversight which is our constitutional authority, duty in this Congress.

All told, I have written over 50 letters and made dozens of inquiries to over 8 departments, as chairman of the Committee on Rules that has legislation pending before it on this matter, and agencies of the Clinton administration, including the President himself numerous times, trying to get the truth out.

□ 1330

For just one example, in my very first letter, on October 21, 1996, coming up to 2 years now, I asked for all information from Secretary Kantor, do my colleagues remember him, Secretary Kantor at the Commerce Department, concerning his department's connection with John Huang to the Riady and the Lippo Group.

Do those names ring a bell, my colleagues? It took numerous letters and words like ''obstruction of justice'' to acquire the briefing book of the late Commerce Secretary Ron Brown that identified his early connections with John Huang, which dated all the way back to April of 1993.

The consistent pressure was also necessary to force Secretary Kantor to begin to come clean on John Huang's access, and my colleagues should listen to this because this is so important, on John Huang's access to highly classified briefings from a CIA official in the government regarding Communist China, an area of the world that this same John Huang was prohibited from having anything to do with.

But lo and behold, and this is a matter now of public record because we have been able to obtain this information and make it public, lo and behold, the information was still dribbled out over a period of not just months, but months and months and months, which ultimately showed that it was not just 12 or 37 or even 109 classified briefings or meetings, but it was more like 150. And who knows if even that is accurate. It could have been a lot more that this man John Huang was receiving classified information that could deal with national security breaches and political espionage. In addition, over 400 to 500 pieces of classified information were passed on to this particular man. Five hundred.

My colleagues, today, despite all of this and more, John Huang remains silent and untouched by justice. He refuses to come forward. In other words, and this is what my colleagues should pay attention to, in other words, a friend of President Clinton, a frequent White House guest, a senior political appointee of the President, one of his chief fund-raisers and vice chairman of the Democratic National Committee, is still hiding behind the Fifth Amendment.

The American people want to know why. What is he hiding; who is he protecting? Congress wants to find the truth and so do the American people. Why can President Clinton not help us with his friend?

And that is really what this resolution is all about. And again I will just read the last section of the resolve clause.

We resolve that the President of the United States should use all legal means at his disposal to compel people who have left the country, taken the Fifth Amendment, to return and cooperate with this investigation.

It ties in with the President's statement back on January of 1998, which said, ''The American people have a right to get the answers.'' That is what the President said and that is what we are urging in this resolution.

My colleagues, today, despite all of this and more, John Huang remains silent and untouched by this justice. But perhaps even more dangerous are 20 witnesses that have fled the country and 17 other foreign nationals who have refused to testify. Foreign nationals, my colleagues, who were in this country.

For example, one of those is a man named Ted Sieong. Do my colleagues remember that name? Have any of my colleagues read the papers in their districts back home? Mr. Sieong, now, listen to this, reportedly an agent for the PRC, that is the People's Republic of China, and a guest of both the President and Vice President, has recently been spotted in Phnom Penh, Cambodia, with his business partner Thung Bun Ma, who has been identified as the leading heroin smuggler in Cambodia, heroin that is reaching into this country and being shot into the arms of our children.

Imagine that, Mr. Speaker, a potential spy and drug kingpin sitting down with the leaders of the free world. What in the world have we come to?

I wrote to Secretary Albright in the beginning of this year, almost 5 months ago now, to find out more about Mr. Sieong and Mr. Bun Ma's visit to America. I have yet to hear back from the State Department. Do they not take this seriously? Why are they stonewalling? Is this obstruction of justice or what? We need to know these answers.

This delay is running to ground individuals who have compromised our national security, and I am sorry to say is not uncommon in this administration, and is entirely unacceptable.

Mr. Speaker, I could go on and on talking about the Riadys, who refuse to cooperate, the largest donors to President Clinton's 1992 campaign and close friends and guests of his. This is one of the largest international conglomerates in the world, my colleagues. Sure, they are rich and, sure, they have all the money to continue hiding, but why can the President not urge them to come forward and tell the truth?

Or what about Wang Jun, who, while having coffee with the President, was the chairman of an outfit preparing to smuggle automatic weapons into America and lobbying to reverse protection on the transfer of American satellite technology to China. In other words, my colleagues, and this is not just me standing up here and saying this, according to recent New York Times reports, this Chinese government arms dealer, sitting for coffee with the President of the United States, made billions of dollars for China upon reversal of those protections while we Americans pay the consequences in potentially deadly breaches of our national security.

Again, get the CIA report, unclassified, and see what I am talking about here today. Mr. Speaker, it is that serious. The stability of the world is in serious jeopardy for the first time since the Cold War.

The President's moral and ethical obligation as Commander-in-Chief, my colleagues, is to insist with the full power, with the full majesty of his office that information is made available, and individuals are compelled to come forward to tell the truth. He ought to be using the power of that office to get them to come forward, to let the American people know the truth and to judge for themselves the damage done to our national security and, consequently, to the future of this great democracy of ours.

Are we going to have these ballistic missiles once again pointed at the United States of America? The immense powers and reach of his executive branch should be commissioned to tell the American people the truth and to identify just how serious our security and foreign policy has been compromised.

I fought for a long time frustrating battles trying to impress upon the administration the severity of this matter, and I have done it in a nonpolitical way, because we were out after the national security breaches and out after the economic espionage, not about this sex scandal. We want to know the truth about how this country has been jeopardized.

Despite all these frustrations, not all was for naught. We found out some information, but more often than not that information was even more disturbing and begged additional questions. Through all of this, I found some good people in the administration, some very good people, willing to help get to the bottom of these breaches of our security. And make no mistake, our national security has been compromised.

But what we need and what the American people deserve, my colleagues, is cooperation from the very top, from the President of the United States himself, in answering our questions and bringing his associates to justice. That is all that we are asking for, is the truth, the truth, the truth.

This resolution stands for all of those things and will put the Congress on record strongly behind the effort to get to the truth and let the American public find out just what has happened to our national security because of many of these shady associations. And I will talk a little bit later about some of those shady associations to try to dramatize just what we are talking about here.

I hope my colleagues across the aisle will join us in a bipartisan appeal to the President. National security is too important for partisan politics. It should stop at the water's edge. We should rally together. We should rally together with the President of this country to try to get to the bottom of this so that we do not have this situation facing the future of our country.

So please vote for this resolution. It is reasonable and deserves my colleagues' support.

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

The SPEAKER pro tempore (Mr. LATOURETTE). Does the gentleman from Michigan (Mr. CONYERS) claim the time in opposition to the resolution?

Mr. CONYERS. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 30 minutes.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, the gap between reality and the description we have just heard is very, very wide. The suggestion that the national security of this country has been endangered or is in danger because of the People's Republic of China, with its relatively weak military capacity, is an absolutely unjustified denigration of the military strength of this country. But it also raises an important question in my mind.

Now, the gentleman from New York was complaining of the President's failure to listen to him regarding apparently the terrible menace of the People's Republic of China. But the President is not the only one to whom he should be addressing his words. It was the leadership of his party that brought forward recently a bill to grant the People's Republic of China Most Favored Nation treatment.

Indeed, Mr. Speaker, I had to check the record. I heard a lot of this denunciation of the threat that China poses to the United States, and I had this vague recollection that the Republican leadership had given the Chinese the single thing they most wanted from this government: Most Favored Nation treatment. Indeed, if we look at the trade practices, if there could be one thing the American government could do that would make the People's Republic of China happier than anything else, it would be to give them Most Favored Nation treatment.

Now I know my friend from New York was against it, and so was I, but it was the Speaker of the House, of his

party, who put it through. Has the gentleman been so focused on the President that he has forgotten to share his wisdom with the Speaker? The staffer who sits next to him, who so carefully hands him that paper every 4 minutes when he forgets where he put it, can the gentleman not have him with him the next time he meets with the Speaker? The gentleman should bring that staffer along, because the gentleman will have to show that paper to the Speaker.

If the gentleman asked the Chinese what they wanted, some missile technology or the right to sell us $50 billion a year worth of goods, I think the $50 billion would come first.

Now, I disapprove strenuously of the way in which the Chinese government runs its people. I think they are oppressing Tibet. I think they are a threat to some of their neighbors. I was supportive of our going to the defense of Taiwan. I do not believe they are a threat to this great strong country. But if I thought they were trying to become a threat to this country, the last thing I would begin to do is to fund them, and that is what Most Favored Nation treatment does.

The Chinese government makes far more money because of Most Favored Nation treatment than anything else. And the gentleman's party put the bill through. The gentleman's party controls the House.

Now, on the other hand, maybe there is good news, Mr. Speaker. Maybe the Speaker has seen the light. Because my understanding, until recently, was that the Republican Party, the leadership of the House, planned once again to bring a Most Favored Nation bill for the People's Republic of China before us. Now, I know I would vote against it and my friend from New York would vote against it, but given the organizational power of that coalition of President Clinton and Speaker GINGRICH, the People's Republic of China would probably get it.

And, apparently, there is a breach in the coalition, because I certainly would find it hard to believe that the Republican leadership, who so excoriated China and so warned us of the danger China presents to our very national security, surely they are not prepared to give the Chinese Most Favored Nation treatment.

The gentleman said it is the Cold War again. During the height of the Cold War, in fact, during the low parts of the Cold War and the medium parts of the Cold War we never gave Russia Most Favored Nation treatment. So I guess those of us who voted against Most Favored Nation treatment for China should take heart: Allies are apparently coming. Because I am sure that the passionate nonpartisan eloquence of the gentleman from New York will not spare his Speaker if he were to err and provide Most Favored Nation treatment for that threatening nation of China.

The other thing I wanted to talk about briefly was the resolution. The facts on this are that the President has, I think, been doing everything he can. I hope no one is suggesting the President has the right to order people not to plead their constitutional rights. But, in fact, the suggestion that the President is not doing what he can is clearly contradicted by the facts.

One of the things the gentleman mentioned were the people who have fled the country. They fled the country because the Justice Department is after them. But the Justice Department works, of course, under President Clinton. We have heard these arguments that said, oh, we must have an independent counsel. And what is the basis recently for demanding an independent counsel? Well, the Justice Department cannot investigate that. How do we know that? Well, we just got facts that show the Justice Department cannot investigate it. Where did we get the facts? From the Justice Department's investigation.

The latest revelations which came from Johnny Chung came from the Justice Department's investigation. The people that have fled the country, in all honesty, I do not think they fear the gentleman from Indiana, who chairs the Committee on Government Reform and Oversight, as much as they fear the Attorney General and her prosecutors.

□ 1345

They are the ones who are threatening them. So what we have here are people have fled the country because the Justice Department is engaging in a tough, honest investigation. And so, what do we say? We say, ''Mr. President, bring them back.'' The only way the President could bring them back would be to order the Attorney General to stop the investigation. It is the Justice Department that is involving them in this investigation.

The gentleman says he wants to pursue this in a nonpartisan way, and I am glad to hear. I look forward to being here the day he chooses to do that. Apparently, today was not the day. Because this is a resolution that is accompanied by rhetoric denouncing the President for following a policy towards the People's Republic of China, which in substantial ways is the same as the Speaker of the House and the people in the other body, because both Houses passed Most Favored Nation.

It is the Administration through the Justice Department which is investigating these people. And that is what they are taking the fifth amendment from. They are refusing to testify before the Justice Department, they are fleeing the Justice Department, and they are saying, well, what are you doing about it? Well, the President is in fact, by the toughness of the investigation under the Attorney General, ultimately the cause of precisely these things.

Now, of course, we want an investigation. And there do appear to be people who abuse the campaign finance system on both parties. We had high-ranking fund-raisers in both the Clinton and Dole campaign in 1996 who behaved badly, who appeared to have violated the law. They should be prosecuted, and we should do it in a nonpartisan way.

But just in summary, first of all, let us not grossly exaggerate the physical threat that the People's Republic of China poses to the United States. Yes, they threatened Taiwan. And when the United States sent military force, they backed down. There is a disparity, fortunately, between the United States and the People's Republic of China military that means we are not in any danger from them. Others might be.

Secondly, if they do believe that the People's Republic of China is such a threat, then how do they put through the House a bill that continues their Most Favored Nation treatment which does as much to fuel their economy as any other single thing, is something they greatly want?

The gentleman from New York (Mr. SOLOMON) is not guilty of inconsistency here. Because he and I agree; we voted against Most Favored Nation treatment. What happened was, and I know the gentleman is very busy, he is busy keeping amendments off the floor, the defense bill, and doing other things, he forgot that the Speaker was for Most Favored Nation treatment. I understand that. He cannot always remember everything.

But now that I have reminded the gentleman that it is his Speaker who was bringing forward Most Favored Nation treatment, I will be glad to go with him, I will even hand him the document and show him if he misplaces it to remind him how terrible it is and how he should not even have it.

Finally, let us note that the investigation from which these people are hiding, in which they are pleading the fifth amendment, is the investigation being conducted by the Attorney General and her aides. And that is, of course, proof that these allegations of cover-up are pretty silly.

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

Well, as Ronald Reagan used to say, we could go to vote right now. Because the gentleman has made my case, and we won, and we could just go to vote. But let me comment a little bit.

I do not know how we got into the Most Favored Nation debate here. The gentleman and I happen to agree with it. But we are talking about bringing fugitives back to the United States.

The gentleman has tried to make the point that maybe it was the Republicans that initiated Most Favored Nation treatment. Everybody knows if they have been here for a while, and the gentleman has been here for a while, same as I have, I see my colleagues all smiling, but it has to be the President of the United States that has to initiate a request for Most Favored Nation. Congress cannot do it. I cannot do it. In other words, it is the President.

The President initiates, and then the gentleman from New York (Mr. SOLOMON) the day after, which I will do on June 3, the day we get back here, because that is probably the day my spies over at the White House tell me the President is going to ask for Most Favored Nation treatment for China again. Although he may not have the nerve to do it after all of the votes that we have had here just in the recent couple of days.

But let me just say to him that he wonders had I not been talking to the gentleman from Georgia (Mr. GINGRICH). Oh, I have been talking to the gentleman from Georgia for many, many years about this issue. I have been talking to TRENT LOTT, who is the Majority Leader, the leader of the Senate. Guess what? I made a lot of inroads with the Majority Leader of the Senate. He is now on our side. And now I have got to work on the gentleman from Georgia (Mr. GINGRICH) a little more. We might get there.

The gentleman from Massachusetts (Mr. FRANK) also was being a little miscourteous I believe, I do not know whether it was intentional or not, when he was referring to the gentleman sitting next to me handing me papers. It ought to be, for the RECORD, that the gentleman sitting next to me is a former Marine fighter pilot in Vietnam. Everybody ought to know that. That is the kind of people I associate with.

I associate with someone just as important in the next speaker. He is a former fighter pilot in Vietnam as well, one of the most decorated heroes of our country. He is the gentleman from California (Mr. CUNNINGHAM). I will let him respond to what I would call an outrageous statement, without being disrespectful, about the weaknesses of the People's Republic of China military. What?

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

Mr. CUNNINGHAM. Mr. Speaker, most of the time the gentleman from Massachusetts (Mr. FRANK) is very eloquent. People listen to him. He has got a lot to say. But I would say that the gentleman is grasping at straws and his last comments are unbelievable, that I do not believe in my lifetime there will be peace in the Middle East or in Bosnia, not even northern Ireland. And I strongly believe that China and Russia today are our biggest enemies today.

The gentleman would like to say the Cold War is over so he can cut defense more, but that is just not the fact. And to engage in trade with Bosnia, with China, with the Middle East, we need to engage not only in dialogue, diplomatic relations, but also trade.

If we look at China, it is a lot different than it was 20 years ago because we have had an influence in there. But to suggest that trade equates to giving away military and technological secrets that would benefit a country in striking other countries and this one is ludicrous, and that is why I say the gentleman is grasping at straws.

Another thing is that the threat is very evident from China and Russia today. I have gone through that several times on the floor of what their threats actually are. And for someone to propose himself as an expert of military strategy and technology that has never dealt with it, never donned a uniform, never planned strategic strikes is amazing, a self-proclaimed expert.

They are a threat, Mr. Speaker. China is a very serious threat. And to give them the technology that could destroy this country is very, very serious.

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

My thanks to the Majority Leader for his fond recollections of the television production ''All In The Family.'' It was produced by none other than Norman Lear, with whom I am sure the gentleman from Texas (Mr. ARMEY) shares many common interests and beliefs.

The President is now being asked in this resolution that everyone who may have invoked the fifth amendment consider abandoning it. Well, why? Well, because, as the Chairman of the Committee on Rules said, why are they hiding behind the fifth amendment? This is technical constitutional lawyer stuff, but the fifth amendment is for all people. The fifth amendment is not used for people to necessarily hide behind it and then have to explain why they invoke the fifth amendment.

I do not think we did that when Lieutenant Colonel Oliver North, during his crisis, invoked the fifth amendment. People use the fifth amendment who are totally innocent and have reasons for not wanting to bring forward information. So I do not think that the test of whether someone is telling the truth or not or is guilty or innocent can be arrived at by whether or not they invoke the fifth amendment. I hope everybody in the Congress will agree on this elementary point of constitutional understanding.

Now, there have been a lot of names of people who are involved, and we said over 90 in the resolution. But may I remind my colleagues that the Senate Banking Committee held exhaustive hearings on some of these subjects, the House Committee on Banking and Financial Services held exhaustive hearings on other parts of the people referred to and the incidents referred to, the Senate Governmental Affairs Committee held incredibly lengthy hearings. And the House Committee on Government Reform and Oversight not only has held lengthy committee hearings but are continuing to hold committee hearings.

So what are we asking the President to do? We are asking him to state that he hopes everyone will cooperate with the investigators and tell the truth. Does anybody on the other side recognize that the President of the United States, Bill Clinton, has already publicly stated that he hopes everyone will cooperate with investigators and tell the truth?

Now, it is both bizarre and unprecedented for us to request one party in an investigation to advise the other party as to how they should conduct themselves and whether they should, in effect, ignore the advice of their lawyers.

Again, as raised in the other resolution, do my colleagues on the other side really mean that that is what they want the President to tell other people that are being investigated? Again, on their behalf, I do not think so.

So I will ask the Members considering this resolution, for what it is worth, I can tell them that I am not favorably disposed toward it and I feel that it is a totally frivolous amendment that is consuming a lot of important time.

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

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would advise that the gentleman from Michigan (Mr. CONYERS) has 17 minutes remaining, and the gentleman from New York (Mr. SOLOMON) has 8½ minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield 6 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague on the Committee on the Judiciary.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me the time.

I think it is important that as we finish this discussion that we try to step away from the allegations that would create hysteria that caused my telephone to ring feverishly last night when Americans from around the Nation considered that we were under immediate attack by Chinese missiles.

I think the important point is what are we discussing here on the floor of the House. I take great aversion to anyone being challenged who has taken an oath of office that they are un-American, that they would do something to endanger the lives of so many millions of Americans. I believe this Nation will not forgive a Congress that itself violates the law.

□ 1400

We need to have the facts why H.R. 433 and 432 have even been brought to the floor of the House. I will tell you why they are on the floor of the House today. One, asking the President to give up his rights to executive privilege, and, two, asking him gratuitously to tell people to testify.

The reason, because Democrats thought that someone presiding over an oversight committee that would call publicly the President a scumbag and then offer to distort tapes and present them to the American public as truth needed to step aside from that investigation.

Our position was not that he needed to step aside from being chairperson of that committee, but during the time of this investigation, the Committee on Government Reform and Oversight needed someone else who would not have characterized his bias such that he would have called the highest officer of this Nation a scumbag.

We always ask for a certain decorum. So the reason why we are on the floor today is because this is a punitive measure against Democrats and a punitive measure against the President of the United States.

Members brought a resolution. We will bring a resolution. Interestingly enough, the resolution that had facts attributable to it was tabled. Yet, many Democrats voted just last week or this week to direct that committee to immunize witnesses so that we could get to the facts.

Democrats are not afraid of an investigation. Democrats are not afraid of campaign finance reform. We have been arguing for such reform time after time after time.

These resolutions are what they are. They are political. They are partisan. Why do I say that? As a Member of the House Committee on the Judiciary, neither one of these resolutions found their way to the committee of jurisdiction.

The Committee on Rules, which is the gatekeeper for this particular body in order to create orderliness, did not get notice of these resolutions but for 5 minutes before they had to review them.

In fact, the law is clear. Someone taking the Fifth Amendment cannot, if they were to testify, attribute their allegations and Fifth Amendment rights to someone who is outside of the realm. So, in fact, why would the President be fearful of someone coming to testify or why would the President in any way be impacted by someone taking advantage of their constitutional rights, the Fifth Amendment?

Why would the President of the United States or anyone other than your religious leader, your spouse, your family member have any authority to tell someone that is not part of his immediate family, to engage them in any discussion about what they do with their constitutional rights? I ask every American to consider moving aside the fairness of what we are asking here.

Then the last resolution that passed was about executive privilege. Executive privilege has been characterized as a sinister tool. Let me tell you that President Reagan claimed it. President Bush claimed it a number of times.

Executive privilege is what it is. It is a recognition of a distinction of three branches of government, the Executive, the Judiciary, and the Legislative Branch. In fact, John Dean, the counsel to Nixon, someone who well knew what executive privilege can bring about, declared just a couple of weeks ago that the President should appeal determinations made on his use of executive privilege.

If you want to talk about national security, the tampering with executive privilege will truly tamper with our national security.

What is this about China? I want the facts about China. I absolutely do not want to see our people in jeopardy. But I would say to the men and women of this country, I believe you are a fair and honest people. If you come to the table making allegations of treason, which one of the Members of our colleagues on the other side of the aisle has already done, then how can you have a fair and unbiased process when the Members who are asking for such resolutions have already committed themselves that the President of the United States has committed treason? We do ourselves an international disservice.

If we are to presume that we want a fair and unbiased hearing on what has happened in China, do we need to then make representations, before we have even heard a single fact, that the President is guilty of treason?

These resolutions are not what they seem to be. I want those who have absconded from the law to return and to acknowledge their constitutional rights, if that is what they so choose, but to respond to the laws of this land. All of us do.

If the executive privilege is used improperly or illegally, then we must address that question. But it is an executive privilege that is a constitutional or a legal provision.

I think we are well to recognize that all is not right just because it happens to be the law of the land, for the Independent Counsel statute has already showed us the abuse that can occur, the millions of dollars that can be spent.

Mr. Speaker, I would simply say that if these resolutions had come through the legitimate processes of this House, if they had been debated in committee, if they had been fairly brought, I would say that we should go forward. Otherwise, I think these are partisan and unfair, and I ask for their defeat.

Mr. Speaker, this Nation will not forgive a Congress that violates the law of equity and the rule of fairness. I must rise today in opposition to H. Res. 433, a resolution which urges the President to compel his associates to cooperate with any and all pending Congressional investigations, for several key reasons. First of all, this issue is moot. The President has consistently asked all of his associates and/or friends involved with any investigation pending in this Congress or elsewhere, to cooperate to the fullest extent of the law. So with that in mind, what unique kind of petition do the authors of this resolution honestly expect the President to make, that he has not made already?

Secondly, the language of this resolution notes that approximately ninety (90) witnesses connected to the campaign finance investigation in the House Governmental Affairs Committee have asserted a Fifth Amendment privilege or have left the country. Do the authors of this resolution actually intend to imply that the President is somehow responsible for the actions of these ninety (90) individuals in choosing to leave the country and/or exert their Constitutionally-protected rights? As we all know, the Fifth Amendment privilege exists only for those individuals that may incriminate themselves with their testimony, not those that may incriminate an outside party like the President. So what possible relationship does the exercise of this individualized Constitutional liberty by the President's so-called ''associates'' have to do with the conduct of the President himself?

And finally, I must take exception with the implicit presumption of Presidential guilt carefully weaved into the language of this resolution. Why is it necessary to include a statement from a December hearing with the Director of the Federal Bureau of Investigation that seems to imply that the President is a part of a grand conspiracy to conceal evidence from this body? If our intentions truly are to simply compel the President to continue to encourage his friends, colleagues and associates to cooperate with this investigation, so be it. But I do not see what the kind of inference made by the FBI Director (that the only other time he has ever seen such an unavailability of witnesses was in a organized crime case he handled over 16 years ago) has to do with the effort to achieve full cooperation by all parties involved in this campaign finance investigation?

In any investigatory proceeding, the key is always process. If we are after the truth, why does the language of this resolution imply Presidential complicity? I need not remind this body that the cornerstone of the American democratic process is the presumption of innocence, yet somehow, the United States Congress seems unwilling to extend that same presumption to the President. I sincerely hope that we can get to the bottom of the campaign finance investigation in the Governmental Affairs Committee, but I just do not see how this resolution is helping to serve that purpose. For all of these reasons, I urge all of my colleagues to ignore partisan differences and please vote down H. Res. 433.

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair will advise that the gentleman from Michigan (Mr. CONYERS) has 11 minutes remaining and the gentleman from New York (Mr. SOLOMON) has 8½ minutes remaining.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Colorado (Mr. SKAGGS) who heads up the Constitutional Caucus in the House.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for the time. I understand there is some frustration on the other side about all of this. This resolution has been cleverly drafted to appear, at first reading, perhaps, even to be innocuous.

But let me just suggest to my colleagues that we ought not to rush to judgment in this matter. It has much larger constitutional consequences then may be first apparent.

The gist of the resolution is to exert the power and the authority of this House to have people waive their constitutional rights, and we need to examine the significance of that proposition very carefully.

First, let us acknowledge that confrontations and disputes in which the Bill of Rights are invoked often come up under difficult and unseemly circumstances. That is simply because the Bill of Rights was designed to protect minority and unsavory points of view, the less powerful, those out of step with the majority, to protect such people from the potentially overzealous power of government.

When a criminal asserts a Fifth Amendment privilege against self-incrimination, it is easy to condemn it and even easier to forget that that privilege exists to protect us all from an overzealous government. Is that not what this recent to-do over IRS reform is all about, for example?

When a miscreant like Khalid Muhammed gives a vitriolic antisemitic hate speech, it is easy to condemn it and finesse its protection under the First Amendment, as this House, unfortunately, did a few years ago. And easier still to forget the First Amendment's guarantee of free speech exists to protect all of us against government-imposed orthodoxy, even those, especially those, with views offensive to the majority.

When a drug dealer asserts a Fourth Amendment privilege against unreasonable search and seizure, it is easy to speak grandly about people who hide behind technicalities, and still easier to forget that those Fourth Amendment protections exist to protect all innocent Americans against abuse by government power.

So while, as here, these issues typically come up in a way that appears to work to the benefit of some questionable behavior, the intended and enduring beneficiaries of the Bill of Rights are all of us. We forget that at our great peril.

But this resolution, boiled down to its essence, is an effort to force Americans to waive their rights. In this case, it happens to be the Fifth Amendment that would be waived. The point resolution, and the danger in this is that its reach is much broader, and the precedent is chilling. If it is the Fifth Amendment today, why not the Fourth Amendment protection against unfounded searches tomorrow, and the Sixth Amendment's guarantee of a speedy and public trial the day after.

If it is the Fifth Amendment today, what about the First Amendment protection against peaceable assembly, or the Fifth Amendment's guarantee against double jeopardy?

We can all think of many cases in which we wish these protections did not apply. They are inconvenient. But that is not the issue.

The point is that in order to have these protections for the vast majority of innocent American citizens, we must also extend those protections to bad actors.

As a matter of simple logic, if we are willing to compromise those fundamental principles as they apply to those whom we hold in low regard, as in this resolution, then we compromise the same principles as they apply to everyone.

That is a danger and a cost that far exceeds whatever satisfaction we may derive from this resolution's attack on the rights of individuals subjected to the delicate and tender ministrations of the investigation by the gentleman from Indiana.

Some will attempt to characterize a ''no'' vote on this resolution as if it were endorsing stonewalling. That is just plain silly.

Unfortunately, in order to support the Bill of Rights and its protections, we have to endorse it, as here, even for cases of people whose behavior we do not and cannot defend, but whose rights are held in common with our own.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) has 6 minutes remaining, and the gentleman from New York (Mr. SOLOMON) has 8½ minutes remaining.

Mr. CONYERS. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I thank the gentleman from Michigan for yielding to me.

Mr. Speaker, the House is currently debating a series of three nonbinding resolutions that are heavy in their political content and very light in their substantive content. They also contain within them a very substantial degree of vindictiveness.

The resolutions in themselves probably would not be harmful except that they are in their intention and in their wording and, also, secondly, because they take away from the House valuable time which it would be better advised dealing with more substantive issues.

This resolution, first of all, suggests that the Congress urge the President of the United States to urge other people to waive their constitutional rights. It says, in effect, that the President of the United States should behave as some kind of a sultan or dictator and have people dragged before a congressional committee and submit to that congressional committee, ignoring completely their rights under the Constitution and ignoring completely the separation of powers which is the hallmark of this government.

This resolution in that regard is enormously dangerous. This comes from the party that asserts itself as being the party of small government, the party of a weaker, less intrusive government. Yet, in this very resolution, all of that is denied. All of that is put aside.

This resolution says that this particular party that advocates this resolution is the party of strong dictatorial government that would force people to behave in ways that are contrary to their own best interests and contrary to the basic protections of the Constitution.

It is very difficult to understand the reasoning behind this resolution, very difficult to understand the reasoning behind its author who stands for different kinds of things, or at least gives voice to different perspectives and different viewpoints than are expressed in this particular resolution.

This resolution says that people should be forced before a particular congressional committee, even though they do not want to appear before that congressional committee.

Why might people be reluctant to appear before this particular committee headed by this particular chairman, the gentleman from Indiana (Mr. BURTON)? It is quite clear. In doing so, they are simply being sensible. They are using good common sense.

They have seen the way that this particular chairman behaves. They have seen that this particular chairman falsifies evidence and information that comes to his attention and is in his hands. They have seen that this particular Chairman will take a person's statements and falsify those statements. He will falsify those statements by extracting from them words, whole sentences, and whole paragraphs.

PARLIAMENTARY INQUIRY

Mr. BUYER. Mr. Speaker, I would like to make a point of order. When someone is on the floor and makes a statement against another Member by saying ''falsifying evidence,'' whether those words would really be in order on the House floor when, in fact, they are not even proven?

The SPEAKER pro tempore. Is the gentleman from Indiana (Mr. BUYER) requesting that the words of the gentleman from New York (Mr. HINCHEY) be taken down?

Mr. BUYER. I so request. Actually, I ask it by my parliamentary inquiry, when he makes such allegation that a Member is actually falsifying evidence, whether those such words would be insulting to the House?

The SPEAKER pro tempore. In response to the gentleman's parliamentary inquiry, Members are reminded to not make personal observations about other Members of the House.

The gentleman from New York (Mr. HINCHEY) may proceed.

□ 1415

Mr. HINCHEY. Mr. Speaker, I would direct the attention of the House to the recorded dialogues and the way in which those dialogues were handled by this particular committee, and ask the Members of the House to make judgments for themselves with regard to the way that those conversations were transcribed, and observe that in those transcriptions, certain words and sentences were omitted and observe in those transcriptions that words in fact were inserted into those transcriptions, which gave entirely different meanings to the sentence and paragraphs allegedly therein transcribed. I think if people will look at that, they will be able to judge for themselves exactly what was taking place there.

Now, with regard to these three nonbinding resolutions and all the time

that these three nonbinding resolutions have taken from the House, it would be one thing if we had all the time in the world to dwell on these political issues. But the fact of the matter is that languishing in committees in this House are important measures that are critical to the health, safety and well-being of millions of Americans.

Languishing in committees in this House is are legislation dealing with the safety of patients in hospitals; languishing in committees in this House is legislation dealing with the regulation of HMOs. Languishing in committees in this House is legislation dealing with the reauthorization of the Federal Superfund. We need to bring that legislation to the floor and have it voted on.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Indiana (Mr. BUYER), a very great American from Monticello, Indiana, and a chairman of the Subcommittee on Personnel of the Committee on National Security.

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

Mr. Speaker, one of my former Democrat colleagues came to the floor and said he recognizes that there a general level of frustration in the House, and I think he is accurate and correct. The level of frustration is there because I believe that the correct body to conduct such a vast investigation should be an independent counsel.

We have asked for an independent counsel for a very long time from the Justice Department, and that is who I think the proper body is. Even the Speaker of the House has an idea to have a select committee, and different people are trying to grope with it. My preference is to have the Attorney General appoint the Independent Counsel, and the momentum of the evidence is building.

I can recall how disturbed I was when I learned that the Attorney General in the fall of 1995 had been warned by our security sources that China was attempting to influence our elections, and then that she thought enough about that concern to pick up the phone and call the National Security Adviser, Sandy Berger, but he was not in and she never bothered to call back personally again.

That really bothered me. I asked her if she ever had a peculiar feeling about not having exercised her due diligence, and she said no, it did not bother her at all. See, that kind of bothers me. It bothers me because if I had a friend whom I knew was about to be shot or killed, I would want to warn them. When the Attorney General finds themselves in that position of having such information, they should have in fact warned the President that there are individuals who were going to seek to have monies come into this country to influence the process.

We find out now it was influenced from so many different angles, there are different allegations. Whether the debates are in this House with Loral and whether or not they have transferred, whether it is satellite, to dual use technologies in the ballistic missile category, it is very, very concerning.

Mr. Speaker, I just wanted to come to the House just to share this. I am very bothered that over 90 witnesses would come forward and take the Fifth Amendment. That is their Constitution right. The gentleman from Michigan (Mr. CONYERS) is absolutely correct, and so is the gentleman from Massachusetts (Mr. FRANK). That is their constitutional right. But how do you get around that Fifth Amendment? You have the Independent Counsel, or Justice, you take them before the grand jury. Then they give them that immunity, and if they do not testify, then they end up going to jail. But there is a proper mechanism for us to get here. I understand the general level of frustration by the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to a very distinguished gentleman from Alabama (Mr. EVERETT).

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

Mr. EVERETT. Mr. Speaker, as part of the discussion on this administration's lack of cooperation with the Congressional investigations, as well as the continuous assertion of executive privilege, I thought my colleagues would be interested and surprised to learn of another stonewalling situation and another assertion of executive privilege by President Clinton's White House. It involves the waiver granted by this administration for the burial of Ambassador Larry Lawrence at Arlington National Cemetery.

I would ask, why on the Earth would the President of the United States not want to reveal to the Congress what happened in the White House in decisions involving matters not even remotely connected to national security? It is stonewalling, Mr. Speaker.

Mr. Speaker, as part of this discussion on this Administration's lack of cooperation with Congressional investigations, as well as on assertions of executive privilege, I thought my colleagues would be interested and perhaps quite surprised to learn of another stonewalling situation and another assertion of executive privilege by President Clinton's White House counsel. It involves the waiver granted by President Clinton to the former surgeon general, Dr. C. Everett Koop, for burial at Arlington National Cemetery, and the waiver granted by the Secretary of Army for the burial of Ambassador Larry Lawrence at Arlington.

As Chairman of the Veterans' Affairs Subcommittee on Oversight and Investigations, I asked the White House for information and documents regarding the White House role in the waivers for Dr. Koop and Ambassador Lawrence. My colleagues will certainly recall the Subcommittee's discoveries that Dr. Koop is the only living person with a waiver, a violation of Arlington's regulations and that Ambassador Lawrence had falsely claimed heroic wartime service in the U.S. Merchant Marine.

The White House has declined to provide responsive answers to the Subcommittee's questions about Dr. Koop's waiver, which was subsequently withdrawn after its existence became public knowledge. That's the long and the short of it.

And, Mr. Speaker, I was totally surprised and amazed, when the President's counsel, Mr. Charles F.C. Ruff, not only did not provide responsive answers to the Subcommittee's questions about Ambassador Lawrence, he asserted executive privilege with respect to certain documents that the privilege log enclosed with his letter of January 23, 1998, described as a ''Memorandum to President from Deputy Counsel to the President and Deputy Assistant for Intergovernmental Affairs regarding Ambassador Lawrence's burial at Arlington Cemetery'' and ''Cover memorandum to President from Assistant to the President and Staff Secretary attaching a copy of document ANC 0000018 described above and a list of persons buried at Arlington Cemetery.''

Mr. Speaker, I ask, why on earth would the President of the United States not want to reveal to Congress what happened at the White House in decisions involving matters not even remotely related to national security. I don't have the answer to my question, and I don't know if the White House is hiding anything, but I am going to keep on trying to find out.

I do believe this is the first time the Veterans Affairs Committee has ever been confronted with an assertion of executive privilege as it attempts to fulfill its constitutional oversight responsibilities, and I want America's veterans to know what the White House is doing, because I think it is the wrong way to conduct the people's business, particularly when it comes to veterans. I hope veterans will let the President know how they feel about it. I can't imagine any good public policy reason to be hiding away information and documents under these circumstances, and I hope the White House will reconsider its position.

Mr. CONYERS. Mr. Speaker, I yield one minute the to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I appreciate the gentleman from Alabama helping draw it all together in a logical way.

Mr. Speaker, I would first say to the gentleman from Indiana, the Justice Department is doing the investigation. He said the way to get around their invocation of the Fifth Amendment is to get them before a grand jury. It is the fact that the Justice Department, or Attorney General Reno, is trying to bring them before the grand jury, that has led them to do this. That investigation is going on.

Finally, I do want to say apparently something I said was misinterpreted as in some way reflecting on the very able staff, and I regret that, because we are very well served here by our staff.

I did mean to call attention to what I thought was the uncharacteristically repetitive argument of my good friend from New York. In no way did I mean to reflect on the first-rate staff work he depends on. This was between Members, and I apologize, because apparently something I said may have had that inference.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I just have to call attention to the fact that no one has

criticized a particular sentence or particular paragraph in my bill.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry. I thought the time had expired.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. SOLOMON) yield for a parliamentary inquiry?

Mr. SOLOMON. No, we have 5 minutes to close.

Mr. FRANK of Massachusetts. I thought the gentleman was yielding to me to close.

Mr. SOLOMON. To close for your time.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) controls the time, and has 5½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, may I please start over again.

Mr. Speaker, I just have to call attention that no one has criticized a particular sentence or paragraph in the bill. Let me just again refer to the very last section, paragraph in the bill. It says that the President of the United States should use all legal means.

Now, you have heard the lawyers on that side stand up and say oh, they are infringing on the Constitution. But all I am saying is to use all legal means at his disposal to compel people who left the country to return and cooperate with the investigation.

Who are those people, Mr. Speaker? If you look at this fellow with the mutton chops right here, I do not know if you can see it from here, but his name is Ted Sieong. The media has identified him as a PRC, People's Republic of China, communist agent. He gave hundreds of thousands of dollars to the Clinton-Gore campaign and the Democratic National Committee. He had dinner with the President. He appeared at the temple, the famous temple with AL GORE.

Ted Sieong, whose business is cigarettes, and you have heard that referred to here, bought and then changed a Chinese newspaper in Los Angeles to support the People's Republic of China communist viewpoint against Taiwan. Even worse, this Ted Sieong guy you are looking at right here, is in business with Thung Bun Ma, the other man identified in the picture, over here, people who have been at the White House.

Thung Bun Ma is the leading Cambodian heroin kingpin that is exporting heroin into this country, into the arms of our children. He sponsored the coup, and I want you to listen to this now, these are the people we are trying to get to come here and testify, he sponsored the coup in Phnom Penh in Cambodia that brought Hun Sen, you know who he is, they brought him to power, reinstating the deadly Khmer Rouge influence. Do you remember the Killing Fields? Have any of you seen that? That murdered over 2 million people.

These are the kind of thugs we are talking about, trying to get the President to cooperate with you and I to bring here. I wrote to Secretary Albright in January, 5 months ago, to learn more about these thugs. I requested again in February, asking the Secretary of State to accelerate the process, and my committee has yet to hear back one word.

Mr. Speaker, here are about 50 news accounts. This is not just me saying it. It is not just people on our side of the aisle. This is the news media from across the country and the world that speaks to the proxy have just mentioned. These are the people we want to come back here and to testify. I will include these articles for the RECORD.

Mr. Speaker, let me say just one more time, on a bipartisan basis, we are urging, we are pleading with the President of the United States to use his legal means, legal means, to get these people to come forward and tell the truth about the national security breaches and the economic espionage that is costing thousands of Johns in this country, but, more than that, is jeopardizing the future of this democracy. Let that is all we are asking for.

Mr. Speaker, I include the articles referred to earlier for the RECORD.

[From the Los Angeles Times, Oct. 30, 1996]

FUND-RAISER HUANG SURFACES, TESTIFIES

(By Robert L. Jackson)

WASHINGTON.—Democratic fund-raiser John Huang emerged from hiding Tuesday and insisted that his evasion of a subpoena in recent days did not mean he wanted ''to run away from the issue'' of his past activities as a Commerce Department official or a Democratic Party fund-raiser.

Huang, who is at the center of a controversy over illegal campaign contributions, testified for more than four hours behind closed doors in a freedom-of-information civil suit brought by a conservative legal organization seeking to show that Commerce Department trade missions overseas solicited money for the Democrats.

A videotape of his testimony released later showed he took the position that he never acted illegally or improperly. He denied that there were any fund-raising aspects to overseas trade missions in which he participated.

Even as Huang surfaced for questioning. Republicans stepped up their assault on the issue of Democratic fund-raising. Sen. John McCain of Arizona and four Republican House committee chairmen asked Atty. Gen. Janet Reno to apply for the appointment of an independent counsel to investigate not only Huang's activities, but also a variety of other alleged improprieties by Democrats in raising funds from foreign sources.

The Republicans accused Huang of ''the apparent deliberate flaunting of federal election law . . . with the apparent cooperation of President Clinton and Vice President [Al] Gore and the Democratic National Committee.''

McCain and the four House chairmen—Bill Thomas of Bakersfield, William F. Clinger Jr. of Pennsylvania, Benjamin A. Gilman of New York and Gerald B.H. Solomon of New York—told Reno that the Justice Department could not be counted on to carry out an inquiry that will be considered fair and free of outside influence.

For that reason, they called on Reno to ask a special federal court to name an independent counsel. Reno gave no immediate reply.

Huang, of Los Angeles, resigned from the Commerce Department in December to join the staff of the Democratic National Committee—where his fund-raising activities led to questions that forced him into hiding earlier this month. At the DNC. Huang solicited more than $800,000 from Asian interests that violated or may have skirted the prohibition on foreign contributions to American political campaigns.

He was not asked about his DNC Activities Tuesday because the Judicial Watch civil suit is limited to Huang's work at Commerce, and his lawyers raised objections to questions they felt went beyond that.

On the subject of his work at Commerce, Huang said he had ''played a very passive role'' in the trade missions at issue in the law-suit. ''The whole Commerce Department objective was to try to help American business overseas.''

* * * * *

Judicial Watch attorney Larry Klayman said he may have more questions today if a federal judge permits them.

Huang said he never traveled on any of the foreign trade missions, which were led by the late Commerce Secretary Ronald H. Brown. And described his only role as participating in ''preparation meetings'' at the department before some overseas trips.

While at Commerce. Huang said, he also never had sought to advance the interests of the world-wide Lippo Group, in which he had been an executive before joining the government. Lippo Group is an Indonesian conglomerate founded by the wealthy Riady family, who have been longtime Clinton supporters.

Huang did acknowledge that over the years he had met ''quite a few times'' at the White House with the president and First Lady Hillary Rodham Clinton and members of the Riady family. He did not describe the purpose of those meetings or say what had been discussed.

While hiding from public view. Huang said, he felt encouraged when Asian American friends told him that Mrs. Clinton had said: ''John's a friend of mine. We all support him.''

Huang insisted that he had not been dodging federal marshals who last week tried to serve him with a subpoena in the Judicial Watch suit, but rather was avoiding ''harassment'' by news media representation seeking to question him about his fund-raising.

''I didn't think it was the proper time to show up,'' he said, adding that he spoke by phone from time to time with Democratic committee officials who did not press him as to his whereabouts.

Huang, who was a high-ranking official with Lippo Group banking enterprises for nine years, said he accepted the Commerce Department position in 1994 because ''as a member of the Asian American community, we have so few working for the government.''

He charged that press reports about his fund-raising ''have tainted the reputation of anyone in our Asian American community.''

In calling for the appointment of an independent counsel, the Republicans cited a number of questionable contributions, including:

$450,000 from Arief and Soroya Wiriadinata, an Indonesian couple who lived in Washington's Virginia suburbs before returning to Indonesia at the end of last year.

$325,000 from Yogesh Gandhi, a great-grandnephew of Mahatma Gandhi.

$250,000 from a South Korean company called Cheong Am America.

$140,000 from individuals at a fund-raiser in April at a Buddhist temple in Hacienda Heights.

In a related development, the Democratic committee continued to delay filing a preelection report that would disclose contributions or expenditures made during the first * * *.

However, the DNC did file with the Federal Election Commission what party representatives said was a comparable set of ''raw data.'' Ann McBride, president of Common Cause, the nonpartisan citizens lobby, termed illegal and ''outrageous'' the Democrats failure to file a formal preelection disclosure report.

[From the Washington Times, Oct. 30, 1996]

5 GOP LAWMAKERS ASK RENO FOR OUTSIDE PROBE OF FUNDING

(By Jerry Seper)

The chairmen of four House committees and a senator yesterday formally called on Attorney General Janet Reno to seek the appointment of an independent counsel to investigate suspected illegal campaign activities by the Clinton administration and the Democratic National Committee.

In a letter prompted by ongoing probes into the campaign activities of the Lippo Group, a $6 billion Indonesian real estate and investment conglomerate, the Republican lawmakers cited ''eight specific instances'' in which the administration and the DNC may have violated federal campaign laws.

They asked that a decision in the request be made by Miss Reno no later than Friday. Justice Department officials had no comment yesterday.

''The magnitude of the funds involved, the high rank of the officials involved and the potential knowing and willful violations committed make it impossible for any officials of this administration's Justice Department to carry out an investigation that will be considered fair and free of outside influence,'' they said.

* * * Bill Thomas of California, chairman of the House Oversight Committee; William F. Clinger of Pennsylvania, chairman of the House Government Reform and Oversight Committee; Benjamin A. Gilman of New York, chairman of the House International Relations Committee; Gerald B.H. Solomon of New York, chairman of the House Rules Committee; and Sen. John McCain of Arizona.

Mr. McCain, who has questioned whether ''foreign influence'' altered U.S. foreign policy on Indonesia, was the first to ask Miss Reno to appoint an independent counsel. He has said Congress needs to know whether President Clinton arranged a ''quid pro quo'' to soften human rights policy on Indonesia in exchange for the contributions.

The eight areas cited were:

The involvement of Mr. Clinton, Vice President Al Gore and the DNC in questionable campaign contributions from Cheong Am America, a South Korean electronics firm whose illegal $250,000 donation was returned, and Arief and Soraya Wiriadinata, Indonesian landscapers who gave $452,000 to the DNC while living in Arlington.

* * * * *

The acceptance of questionable contributions from Yogesh Gandhi, from individuals at the Hsi Lai Buddhist Temple in Los Angeles, from individuals at the Hay-Adams Hotel in Washington and from the Wiriadinatas.

The fund-raising activities of DNC executive and former Commerce Department official John Huang.

The possible improper influence of official government decisions as a result of campaign contributions to the DNC by associates and allies of Mochtar Riady, who controlled Lippo.

The DNC's use of tax-exempt facilities at the Hsi Lai Temple for fund-raising purposes.

The possible attempt by Mr. Huang, with either the knowledge or approval of the DNC, to obstruct an investigation of his activities by evading a subpoena.

The DNC's September FEC report listing the DNC's address as the home address of at least 31 contributors.

At the center of GOP concerns are the millions of dollars in contributions to the DNC solicited by Mr. Huang, the group's vice chairman for finance.

[From the Washington Times, Nov. 1996]

FOREIGN-MONEY SCANDAL GROWS AS $15 MILLION OFFER IS REVEALED

(By Jerry Seper)

A local businessman told two of Taiwan's leading newspapers this week he was present when the chief financial manager of the ruling Nationalist Party offered to donate $15 million to President Clinton's re-election campaign.

The businessman said the offer was made to Mark E. Middleton, an Arkansas lawyer and former top aide to White House senior adviser Thomas F. ''Mack'' McLarty. Federal election laws forbid such a contribution from foreign residents, and there is no record the donation was ever made.

News of the offer capped a day in which:

The White House said there are two John Huangs—one a fund-raiser embroiled in a scandal over contributions to the Democratic National Committee, the other, a former IRS employee working on Vice President Al Gore's ''reinventing government'' initiative. A John Huang visited the White House 78 times in the last 15 months. The White House says the visits weren't all by the DNC fund-raiser—but it doesn't know how many were.

The DNC filed its overdue financial report, which revealed it returned a $10,000 contribution on Oct. 16 to Kyung Hoon Lee, chairman of Cheong Am America Inc., the South Korean electronics company that illegally donated $250,000 to the Democrats earlier this year.

In the Taiwanese connection, Mr. Middleton, who left the White House in February 1995 to work in Washington as an international business consultant, arranged a controversial meeting in September 1995 between Mr. Clinton and the Nationalist Party financial officer, Liu Tai-ying, during a critical moment in U.S.-Taiwan relations, said businessman Chen Chao-ping.

The Los Angeles Times said Mr. Middleton escorted Mr. Liu to the Clinton meeting after telling the Taiwanese party chief he had ''a direct channel'' to the White House.

At the time, relations with China had plummeted to the lowest point in years after Mr. Clinton allowed Taiwan's president, Lee Teng-hui, to visit Cornell University in June 1995, breaking a pattern of barring Taiwan's leaders from U.S. visits. China responded with missile tests at sea near Taiwan, causing Taiwan's stock market to plunge and international airlines to reroute flights.

Mr. Middleton denied, in a statement, ever soliciting funds for the DNC or Mr. Clinton during several business trips to Taiwan, or arranging for ''any contributions to the DNC or any candidate from any foreign source.'' He said, ''Any statements to the contrary are completely false.''

Congressional investigators are looking into Mr. Middleton's Taiwanese contacts, along with those of James C. Wood, another Arkansas lawyer and friend of Democratic fund-raiser John Huang, to determine if they used their White House ties to solicit contributions from Taiwanese businessmen and government officials.

Both Mr. Middleton and Mr. Wood are friends and confidants of Mr. McLarty's.

Meanwhile, the Justice Department is reviewing accusations of illegal campaign activities by the White House and the Democratic National Committee to determined if calls by Republican lawmakers for the appointment of an independent counsel is warranted.

The review, required under the Independent Counsel Statute, will include a 30-day preliminary inquiry to determine if suspicions that campaign funds were illegally sought and delivered to the DNC and the Clinton administration are credible and if a formal, 90-day criminal probe is warranted.

That criminal probe would determine whether Attorney General Janet Reno should ask a federal appeals court panel to appoint an independent counsel.

Earlier this week, the chairmen of four House committees and a senator called on Miss Reno to seek the appointment of an outside counsel to investigate suspected illegal campaign activities. Targeting the Lippo Group, a $6 billion Indonesian real estate and investment conglomerate, the lawmakers cites ''eight specific instances'' in which the White House and the DNC may have violated federal campaign laws.

They said the ''magnitude of the funds involved, the high rank of the officials involved and the potential knowing and willful violations committed'' made it impossible for the Clinton Justice Department to carry out an investigation ''that will be considered fair and free of outside influence.''

The letter was signed by Reps. Bill Thomas of California, chairman of the House Oversight Committee; William F. Clinger of Pennsylvania, chairman of the House Government Reform and Oversight Committee; Benjamin A. Gilman of New York, chairman of the House International Relations Committee; Gerald B.H. Solomon of New York, chairman of the House Rules Committee; and Sen. John McCain of Arizona.

Mr. McCain has questioned whether ''foreign influence'' altered U.S. foreign policy on Indonesia and has said Congress needs to know if Mr. Clinton arranged a ''quid pro quo'' to soften human rights policy on Indonesia in exchange for the contributions.

During a press briefing on Thursday, Miss Reno acknowledged she had received the request, saying, ''We are looking at it in the context of the Independent Counsel Statute.'' She said the act ''prescribes certain deadlines, and we will operate under that and do everything we can based on the evidence and the law.''

Miss Reno said the matter had been referred to the department's public integrity section, which is staffed by career lawyers who investigate and prosecute corruption cases involving public officials and the electoral system.

Mr. Wood, who has been unavailable for comment, was named in 1995 to head the American Institute in Taiwan (AIT), a private foundation on contract to the State Department to maintain unofficial ties with Taiwan. As head of the AIT, he effectively served as U.S. ambassador to Taiwan.

Published reports said senior officials in Taiwan complained that Mr. Wood pressured businessmen for donations, suggesting Mr. Clinton should be rewarded for his pro-Taiwan policies. On a visit to Taiwan this year, Mr. Wood was accompanied by Mr. Huang in what the DNC said was a fund-raising trip.

Mr. Wood practices international-trade law in Washington and has clients with economic interests in China and Taiwan.

Mr. Middleton helped raise $4 million in the 1992 Clinton presidential campaign.

[From the Washington Times, Nov. 27, 1996]

COMMERCE DEPT. QUERIED ON LIPPO, VIETNAM POLICY

(By Jerry Seper)

The chairman of a House committee probing foreign-linked campaign gifts to the

Democratic Party asked Commerce Secretary Mickey Kantor yesterday to explain the role three Lippo executives played in President Clinton's 1994 decision to end a 30-year trade embargo with Vietnam.

Rep. Gerald B.H. Solomon, the chairman of the House International Relations Committee, demanded ''all information'' concerning contacts, agreements or ''other dealings'' involving the Lippo Group; Mochtar Riady, the company's founder; his son. James, a Lippo executive; and John Huang, a former Lippo and Commerce Department official, in ''any influence of U.S. policy and the normalization of relations with the Socialist Republic of Vietnam.''

In a letter, the New York Republican said he wants clarification on Vietnam policy meetings called and attended by Mr. Huang while he was deputy assistant secretary of international economic policy at Commerce and on efforts by Lippo to end the Vietnam embargo.

In a handwritten note on the bottom of the two-page letter. Mr. Solomon said: ''This is important, I ask you.''

Mr. Huang is at the center of a controversy over foreign-linked campaign donations to Mr. Clinton and the Democratic National Committee.

After the embargo was lifted, talks began within the administration on formulating trade policies toward Vietnam. Mr. Huang moved from Lippo to the Commerce Department during this process and began a vigorous campaign to open Vietnam to U.S. trade.

Mr. Solomon wants to know whether Lippo sought to influence U.S. policy toward Vietnam while the company was making trade overtures to that country. He asked Mr. Kantor for similar documents in October. Mr. Kantor responded with some but did not include Vietnam-related files.

Commerce spokeswoman Maria Cardona said yesterday Mr. Kantor had not seen the letter and therefore had no comment.

The panel's interest in Lippo's role in the end of the embargo surfaced in October When it got Mr. Huang's appointment calendars and found that he began an aggressive campaign for a new trade policy toward Vietnam a day after his July 1994 appointment. He pushed that policy for the next 17 months while Lippo, his former employer, sought to expand its investment empire into Vietnam.

Mr. Huang's Commerce Department calendars show that immediately after he left Lippo with a $780,000 bonus, he began a series of meetings with White House officials, key associates, international bankers and corporate executives to discuss an expansion of trade with Vietnam.

Republicans have suggested his activities on Vietnam represented a conflict of interest, and they have called for congressional hearings and the appointment of an independent counsel to investigate the matter.

The Justice Department is reviewing a request by Mr. Solomon and the chairmen of three other House committees for the appointment of an independent counsel. Assistant Attorney General Andrew Fois has said the case is being examined by the department's public integrity section.

Mr. Huang's first involvement in Vietnam policy as a deputy assistant secretary came on his first day on the job, July 19, 1994, when he scheduled a 9 a.m. meeting on ''U.S.-Vietnam policy.''

Mr. Clinton lifted the Vietnam embargo on Feb. 4, 1994, reneging on a 1992 campaign pledge to first get a ''full accounting'' of Americans missing from the Vietnam War.

Mr. Solomon, in his letter, asked Mr. Kantor to explain meetings Mr. Huang had in July and October 1994 and in January, February and August 1995 that are listed as Vietnam-related.

Mr. Solomon also asked for information on an April 1993 meeting involving Commerce Secretary Ronald H. Brown and 40 Asian community leaders in Los Angeles to discuss most-favored-nation trade status for China and the normalization of relations with Vietnam.

Mr. Huang, then an official at Lippo Bank in Los Angeles, attended that session, congressional investigators said.

At least 11 House panels, including Mr. Solomon's, are probing foreign contributions to the DNC, looking at Mr. Huang's ties to Vietnam policy, and examining his appointment calendars to determine with whom he met, what was said and what agreements were reached, particularly those that could directly benefit Lippo.

While Mr. Huang was at the Commerce Department, the Lippo Group, based in Indonesia, sought to expand its $6.9 billion investment empire into Vietnam.

Mochtar Riady led a trade mission of Asian bankers to Vietnam in September 1993. Lippo opened trade offices in Ho Chi Minh City and Hanoi after Mr. Riady's visit.

James Riady, Lippo's deputy chairman, has said Mr. Huang was ''my man in the American government.''

[From the New York Times, Dec. 3, 1996]

LETTERS SHOW HOW INDONESIAN DONOR FAMILY LOBBIED CLINTON

(By Alison Mitchell)

WASHINGTON, Dec. 2.—Mochtar Riady, an Indonesian businessman with longstanding ties to President Clinton, recommends to the President that the United States normalize ties to Vietnam and pursue economic engagement with China.

Mark Grobmyer, an Arkansas businessman, lets Mr. Clinton know that Indonesia's President Suharto would like to address the Group of Seven industrial nations.

And an Alabama insurance executive asks Vice President Al Gore for a letter congratulating his company for a venture with a Riady company.

These letters—details of which were made available today by White House officials—are among more than a dozen pieces of correspondence to and from the White House concerning the Riady family. White House officials are preparing to turn over the documents to Congressional committees looking into questionable fund-raising practices by the Democratic National Committee.

White House officials said they were still culling records and could not yet say whether more letters would be found or when the materials would be delivered to Congress.

Representative Gerald B. Solomon, the chairman of the House Rules Committee, wrote a letter to the White House asking why he had not been told of the correspondence in October when he asked for information about the Riadys from Commerce Secretary Mickey Kantor.

''I would appreciate convincing assurances that it was not an attempt to cover up embarrassing information before the election,'' Mr. Solomon, Republican of New York, said.

As described by White House officials, the letters cast little light on the questions Republicans are most interested in: whether the Riady and their associates affected American policy toward Asia or benefited from helping raise millions in donations for the Democratic committee.

Replies to the Riadys and their associates from the President and Vice President, also described by the White House, often seemed little more than form letters. Some of the correspondence was social. Mr. Clinton sent a brief birthday note to Mr. Riady on May 7, 1993, for instance.

But the letters do help paint a fuller picture of the relationship between the Clinton White House and the Riady family, which became a focus of Republican attacks after the Democratic National Committee suspended John Huang, a fund-raiser who had been a top executive in the United States for the American interests of the Riady family.

In a four-page letter to Mr. Clinton on March 9, 1993, Mochtar Riady thanked the President for seeing him briefly during Inaugural festivities and then offered detailed advice about how the United States should approach trade relations with Asia.

He argued that the Administration should normalize relations with Vietnam, saying in passing that he had two managers there looking for investment opportunities. Mr. Riady said Suharto, the Indonesian ruler, wanted to attend the G–7 summit. And he urged that the Administration allow economic engagement with China as the best way to bring about reform. Mr. Clinton in 1992 had assailed President George Bush for seeking to use economic engagement to change China. But once in office, he followed essentially the same policy.

Mr. Clinton has acknowledged discussing policy with Mr. Riady's son James, once an Arkansas businessman, but said Mr. Riady never influenced policy decisions. Speaking to reporters today, Mr. Clinton the March 1993 letter was ''a letter like tens of thousands of other letters I get.'' He called it ''a straightforward policy letter, the kind of thing that I think people ought to feel free to write the President about.''

Michael D. McCurry, the White House press secretary, said that the President had been interested in input from business executives regarding economic policy in Asia. And while the Administration decided in 1994 to lift the United States embargo against Vietnam, Mr. McCurry said that ''to suggest that any particular individual's views, whether it be a financial contributor or not, would have a disproportionate thinking on the work of the Administration is a little bit less than credible.''

In another letter to Mr. Clinton in March 1993, Mr. Grobmyer a Little Rock lawyer who has been active with the Riadys and others in Asian business dealings, wrote to Mr. Clinton about a recent trip he took to Asia. He too said that Mr. Suharto wanted to address a meeting of the Group of Seven in Tokyo.

Mr. Grobmyer said he had already spoken to Thomas F. McLarty 3d, then the White House chief of staff, and Nancy Soderberg, an official at the National Security Council, about his trip. He said the Riadys had helped him in his travels and attached a draft thank you note that he said the President might consider sending to them, with suggestions on increasing American competitiveness in Asia. There is no sign among the correspondence that Mr. Clinton sent such a letter to the Riadys and the United States did not back Mr. Suharto's attendance at the meeting. Instead, Mr. Clinton met Mr. Suharto in Tokyo during the summit.

Vice President Gore also got a letter in 1994 about the Riadys. The White House has found the second page of a letter to the Vice President from W. Blount of the Protective Life Corporation saying that his company was forming a joint venture with one of the Riady companies, the Lippo Group. He asked for a letter of congratulations, noting that it would help with the Riadys if the letter affirmed that his company was known to the Administration. Several months later the Vice President wrote to James Riady expressing congratulations on the joint venture.

[From the Washington Times, Dec. 1996]

WHILE LIPPO EYED VIETNAM, HUANG PUSHED AT COMMERCE

(By Jerry Seper)

John Huang began aggressively arguing for a new U.S. trade policy toward Vietnam only one day after his July 1994 appointment as a top Commerce Department official—and pushed the idea for the next 17 months while his former employer, the Lippo Group, sought to expand its investment empire into Vietnam.

Republican legislators believe Mr. Huang's efforts to open Vietnamese markets after his former company paid him a $780,000 bonus is a conflict of interest, and they have called for congressional hearings and the appointment of an independent counsel to investigate the matter.

''Mr. Huang's prior involvement with Lippo and his activities at Commerce with regard to Vietnam is an absolute conflict of interest,'' says Rep. Gerald B. H. Solomon, New York Republican and chairman of the House Rules Committee. ''It's just outrageous that these kinds of things can happen, these kinds of things can happen, and we're going to insist that we get to the bottom of it.

''If this was Wall Street or the New York Stock Exchange, this kind of insider information would result in people going to jail.''

The Justice Department is now reviewing a request by Mr. Solomon and the chairmen of three other House committees, along with Sen. John McCain, Arizona Republican, for the appointment of an independent counsel. Assistant Attorney General Andrew Fois says the case is being examined by the department's Public Integrity Section.

Mr. Huang's attorney, John C. Keeney Jr., says he and his client ''were not in a position to respond'' to questions concerning the Vietnam accusations.

Now at the center of a growing controversy over foreign-linked campaign donations to President Clinton and the Democratic National Committee, Mr. Huang met several times with White House officials, key friends and associates of Mr. Clinton, international bankers, and corporate executives to discuss an expansion of trade ties with Vietnam, according to his personal appointment calendars.

In fact, his first involvement in the topic as a deputy assistant secretary for international trade came during his first full day on the job, July 19, 1994, when he scheduled a 9 a.m. meeting on ''U.S.-Vietnam policy.'' Several other meetings are listed in his personal calendars as Vietnam-related.

Mr. Clinton, discarding a 1992 campaign pledge for a ''full accounting'' of Americans missing in action during the Vietnam War, ended a 30-year trade embargo against Vietnam in February 1994. Several companies, including the Lippo Group and its U.S. affiliates, were scrambling to take advantage of new market potential.

Five months after the embargo was listed, while talks continued on formulating new trade policies with Vietnam, Mr. Huang moved to Commerce with his $780,000 Lippo bonus and immediately began a vigorous campaign to open up that country to U.S. trade.

Three House committees probing suspected illegal foreign contributions to Mr. Clinton and the DNC are looking into Mr. Huang's ties to Vietnam trade agreements and have begun to examine his appointment calendars to determine with whom he met, what was said and what agreements were reached—particularly those that might have benefited the Lippo Group directly.

Investigators also have focused on assertions by James Riady, deputy chairman at Lippo and son of Lippo's owner, Mochtar Riady, that Mr. Huang was ''my man in the American government.''

Mr. Solomon says preliminary inquiries have shown that ''extremely large contributions'' were made during the 1996 presidential campaign but it is not clear what concerns the Lippo Group had in giving the money or what the company received in return.

The request for an independent counsel is backed by Mr. Solomon; Mr. McCain; and Reps. Bill Thomas of California, chairman of the House Oversight Committee, William F. Clinger of Pennsylvania, chairman of the House Government Reform and Oversight Committee, and Benjamin A. Gilman of New York, chairman of the House International Relations Committee.

Eight specific areas of concern, including ''the fund-raising activities of DNC executive and former Commerce Department official John Huang,'' were cited.

According to Mr. Huang's calendars, copies of which have been obtained by the committees, he scheduled several Vietnam-related meetings with government and corporate officials between his 1994 appointment and his December 1995 resignation to join the DNC as a fund-raiser.

At the time, the Jakarta-based Lippo Group, where Mr. Huang was a banking executive and vice chairman, was seeking White House and Commerce Department help in expanding its $6.9 billion real estate and investment holdings into Vietnam, where the firm had huge financial interests.

Mochtar Riady had led a trade mission of Asian bankers to Vietnam in September 1993 to appraise business opportunities there—five months before Mr. Clinton's decision to lift the embargo. By early 1995, the firm had put together a joint marketing venture with First Union Corp. of North Carolina to finance trade efforts in Southeast Asia.

James Riady and Mr. Huang are longtime friends of Mr. Clinton and were officers at Worthen National Bank in Little Rock (which has become Boatmen's Bank of Little Rock, a subsidiary of Boatmen's Bank of St. Louis) when Mr. Clinton was the governor of Arkansas. In 1992, they approved a $3.5 million loan to the Clinton presidential campaign just before the New York primary.

Mr. Huang also raised $250,000 in contributions for the 1992 race and was responsible for raising $4 million to $5 million in donations for Democrats in 1996.

Most actively involved in the Vietnam venture was Lippo Ltd., a privately held finance and real estate subsidiary of the Lippo Group. the firm reported $3.6 billion in assets, with 143 subsidiaries in 11 countries. The Riady family controls 54 percent of Lippo Ltd. stock and oversees it subsidiaries, one of which was Worthen.

Also involved was Lippo Bank, publicly held and based in Jakarta. With assets of $3.3 billion, it has more than 260 branches in 90 cities in Indonesia, as well as offices in Vietnam and California.

[From the Washington Times, Dec. 1996]

SECRECY ON RIADY LETTERS RIPPED

SOLOMON WARNS OF MORE SCRUTINY

(By Jerry Seper and Paul Bedard)

A House committee chairman probing campaign contributions to the Democratic Party yesterday accused the White House of balking at Congress' request for letters detailing the controversy while it conducts a public-relations campaign through the press.

''I found it offensive that instead of paying me the courtesy of faxing the March 1993 letter from Mochtar Riady, the White House prefers to let the press view the Clinton-Riady correspondence under controlled conditions and with its own self-serving spin,'' said House Rules Committee Chairman Gerald B.H. Solomon, New York Republican.

''For four years, this has been the standard White House reaction to exposure of its own actions. The White House is now in no position to complain of increased congressional scrutiny,'' he said. ''In fact, they can count on it.''

The complaint came as the White House released new details on the letters between the president and Indonesian billionaire Mochtar Riady and his son, James, but continued to put off congressional demands for the documents.

Mr. Solomon, who Monday denounced the White House's refusal to release documents, said a March 9, 1993, letter from Mochtar Riady calling for an end to a 30-year trade embargo on communist Vietnam was critical in determining the scope of pending hearings and whether they should be conducted by a special or standing committee.

He said the hearings are necessary because of Attorney General Janet Reno's decision last week to reject his request for the appointment of an independent counsel to look into accusations of campaign-finance irregularities.

The White House letters suggest a strong friendship between the Riady family, which runs the Lippo Group, and the president and his aides, as well as a reliance by Mr. Clinton on the Riadys' advice on Asia policy. A key to this relationship is the March 1993 letter calling on Mr. Clinton to lift the embargo. The president did so in February 1994.

In that letter, Mr. Riady thanked Mr. Clinton for meeting with him on Inauguration Day in 1993 and suggested that normalizing business relations would snowball into political reforms in the communist country. He also urged Mr. Clinton to continue U.S. engagement in China and suggested he let Indonesian President Suharto attend the 1993 Group of Seven economic summit in Tokyo.

The White House said Mr. Clinton responded by referring Mr. Riady's letter to Robert E. Rubin, who at the time was Mr. Clinton's top economic-policy adviser and now is Treasury secretary.

The letters detailing the president's links to Mochtar Riady also indicate that former Democratic National Committee fund-raiser John Huang wielded influence over the president. For example, after the White House delayed nearly two months in writing a letter congratulating Mr. Riady for receiving an award from Golden Gate University in San Francisco, Mr. Huang weighed in.

In April this year, he wrote Nancy Hernreich, deputy assistant to the president and director of Oval Office operations, seeking a Clinton letter. Seven days later, Mr. Clinton wrote a congratulatory note to Mr. Riady.

The White House said it will release the texts of the letters once it completes its search for all records of the Clinton-Riady relationship.

Many of the letters also detail the relationship between the president and his aides and James Riady, the chairman of Lippo and a longtime Clinton friend.

A Clinton associate, Little Rock businessman Mark Grobmyer, wrote the president about his May 1993 trip to Indonesia and Asia and asked him to write James Riady a thank-you note for aiding in the trip. In May 1993, the president wrote to Mr. Riady, applauding his efforts to strengthen U.S. business ties to Asia. He also thanked Mr. Riady for giving him a specially made nameplate.

The White House also detailed a letter from William E. Blount of Protective Life Corp., whose firm joined in a venture with Lippo in Asia. In January 1994, Mr. Blount asked Vice President Al Gore for a letter

congratulating the firms on the venture. That April, Mr. Gore wrote Mr. Riady to express the administration's satisfaction with the venture.

[From the Washington Times, Dec. 1996]

CLINTON SAYS LIPPO LETTER DIDN'T SWAY HANOI POLICY

(By Jerry Seper and Paul Bedard)

President Clinton acknowledged yesterday that he received a letter from the head of the Indonesia-based Lippo Group seeking normalization of trade relations with Vietnam, but he denied the 1993 letter influenced his decision to end a 30-year trade embargo on that country.

The chairman of a House committee probing the role of three Lippo executives in the decision to end the embargo angrily denounced what he called a possible ''cover-up'' in Mr. Clinton's failure to release the letter from Mochtar Riady, Rep. Gerald B.H. Solomon, New York Republican, demanded that the president immediately make it public to avoid the perception of an ''obstruction of justice.''

Mr. Solomon, chairman of the House Rules Committee, had asked the White House and the Commerce Department in October for all communications, correspondence or ''any other dealings'' involving Lippo; Mr. Riady; his son, James, a Lippo executive; and John Huang, former Lippo and Commerce official, regarding efforts to ''influence'' U.S. trade policy with Vietnam.

The committee chairman also sought clarification on Vietnam policy meetings called by Mr. Huang while a deputy assistant secretary for international economic policy at Commerce and on Lippo efforts to end the embargo at a time when it was moving its $6.9 billion real estate and investment empire into Vietnam.

''Failure to do so could only be construed . . . as a continuation of the pattern of stonewalling begun before the recent elections,'' Mr. Solomon said. ''There could be no other possible explanation of your failure to produce the letter. Such an invitation would also invite suspicions of obstruction of justice, whether such suspicions are warranted or not.''

Mr. Clinton promised to make the letter available, but not before he first delivers it to congressional oversight committees—probably sometime next week. Its existence was first reported yesterday by the Wall Street Journal.

''It's a letter like tens of thousands of other letters I get, people suggesting every day . . . what our policy ought to be in various areas,'' Mr. Clinton told reporters at a ceremony to honor spaceshuttle astronaut Shannon Lucid. ''You will see it's a straightforward policy letter, the kind of thing that I think people ought to feel free to write the president about.''

Mr. Clinton also dismissed threats of hearings. ''They'll have to do their business. They can do whatever they think is right. I'm going to spend my time working on what I can do,'' he said.

His spokesman, Michael McCurry, tried to say there was nothing new in the Journal's story. He said that the letter's existence was ''largely known'' to other reporters and that Mr. Riady's representative had made reference to the letter's having been sent.

''I think we never formally disputed the notion that there was such a piece of correspondence from Mr. Mochtar Riady,'' Mr. McCurry said.

The letter was not released, he said, because the administration wanted first to answer congressional inquiries about the affair.

Mr. McCurry also rejected suggestions that Mr. Riady influenced policy toward Vietnam: ''To suggest that any particular individual's views, whether it be a financial contributor or not, would have a disproportionate thinking on the work of the administration is a little bit less than credible,'' he said.

The March 9, 1993, letter called on Mr. Clinton to normalize relations with Vietnam, noting that two Lippo executives were scouting investment opportunities there. The president responded on April 5, 1993, saying the letter had been sent to Robert E. Rubin, then chairman of the White House National Economic Council and now Treasury secretary.

Mr. Huang and the Riadys are at the center of a growing criticism over foreign-linked campaign donations to Mr. Clinton and the Democratic National Committee, with as many as 11 House committees looking into the matter.

James Riady and Mr. Huang were among 14 donors of $100,000 or more to the 1993 Clinton inaugural festivities—a contribution coming at a time when the administration was considering a change in U.S.-Vietnam relations.

The rules panel has targeted Lippo's role in the president's Feb. 4, 1994, decision to end the Vietnam embargo despite a 1992 campaign pledge to first get a ''full accounting'' of Americans missing from the Vietnam War.

After the embargo was lifted, talks began within the administration on formulating trade policies toward Vietnam. Mr. Huang then moved from Lippo to Commerce and began a campaign to trade with Vietnam, where his former employer had opened offices in Hanoi and Ho Chi Minh City.

The administration fully normalized relations with Vietnam in July 1995.

Mr. Solomon wants to know whether Lippo sought to influence U.S. policy toward Vietnam while the company was making trade overtures to that country, and he asked Commerce Secretary Mickey Kantor for similar documents in October. Mr. Kantor responded with some documents but did not include Vietnam-related files.

The panel's interest in Lippo's role in the embargo surfaced in October when investigators obtained Mr. Huang's Commerce appointment calendars and found he began an aggressive campaign for a new Vietnam trade policy a day after his July 18, 1994, appointment. He pushed that policy for the next 17 months while Lippo sought to expand into Vietnam.

Mr. Huang's calendars show that immediately after he left Lippo with a $780,000 bonus he began a series of meetings with White House officials, key associates, international bankers and corporate executives to discuss an expansion of trade with Vietnam.

Republicans have suggested his role in the matter was a conflict of interest and have called for hearings to investigate the matter.

[From the Washington Times, Dec. 14, 1996]

CLINTON TIES TO RUSSIAN VISITOR QUESTIONED

(By Jerry Seper)

The chairman of the House Rules Committee has asked the White House for records of all meetings and correspondence between President Clinton and Grigori Loutchansky, a White House visitor and head of a firm identified as being tied to Russian criminal activity.

Rep. Gerald B.H. Solomon, New York Republican, this week also sought records on Sam Domb, a New York real estate executive who brought Mr. Loutchansky as guest to a White House dinner in October 1993 and donated $160,000 to the Democratic National Committee over 12 months after the dinner.

I do not take pleasure in noting that the selective and carefully controlled release of information by the White House has obliged Congress to make repeated following inquiries about possible fund-raising irregularities and conflicts of interest,'' Mr. Solomon said in a letter to the president.

''Public accounts have placed you, Mr. President, and Vice President Gore with both Mr. Loutchansky and Mr. Domb at least once,'' Mr. Solomon said in his request for the records.

Mr. Loutchansky, head of an Austrian-based commodities trading firm known as Nordex, got a private two-minute meeting with Mr. Clinton and his picture taken with the president. He also was invited by the DNC to a fund-raising dinner with the president at the Hay-Adams Hotel in July 1995 but did not attend.

A Russian who now lives in Israel, Mr. Loutchansky was not available for comment yesterday. Mr. Domb also was unavailable but has said he took Mr. Loutchansky to the dinner as part of a business venture that ''didn't work out.''

''Any DNC invitation to Loutchansky in 1995 would show a severe lack of scrutiny and appalling bad judgment. It would be unwise in the extreme for there to be any ties between the U.S. government and Loutchansky or Loutchansky's company, Nordex,'' R. James Woolsey, who headed the CIA from 1993 to 1995 and is a partner at the Washington law firm of Shea and Gardner, has said.

''At a congressional hearing in April, the current director of central intelligence, John Deutch, identified Grigori Loutchansky's company, Nordex, as an 'organization associated with Russian criminal activity'. Next to Loutchansky, the Lippo syndicate looks like the Better Business Bureau.''

The Indonesian-based Lippo Group is at the center of a growing scandal over foreign-linked campaign donations to Mr. Clinton and the DNC. The real estate and investment firm was founded by Mochtar Riady, a longtime Clinton supporter and campaign contributor.

In a four-page report in July, Time magazine said Mr. Loutchansky's firm was linked with nuclear smuggling, drug trafficking and money laundering and that Nordex was established to ''earn hard currency for the KGB.''

Te magazine reported that, during the past three years, the National Security Agency ''found indications that Nordex was engaged in nuclear smuggling.'' It also said Mr. Loutchansky was the sole subject of a two-day Interpol meeting involving 11 nations in 1995.

More than a year before Mr. Loutchansky was invited to the 1995 White House dinner; Canada blocked him from entering that country because he failed a background check.

Questions this year about Mr. Loutchansky's visit to the White House—and that of convicted drug dealer Jorge ''Gordito'' Cabrera—prompted a review by the Justice Department into procedures used for screening guests.

In November 1995, Cabrera gave $20,000 to the DNC. He accepted invitations a month later to a White House Christmas party and a Miami fund-raiser.

[From the Stars and Stripes, Dec. 9–15, 1996]

'93 LIPPO LETTER RENEWS HILL SCRUTINY OF MOVE TO END VIET EMBARGO

(By Mark Allen Peterson)

President Clinton's 1994 decision to end the U.S. embargo with Vietnam has come under renewed scrutiny in the light of correspondence on the issue received by the White House from Indonesian businessman Mochtar Riady.

The Wall Street Journal last week revealed that the White House had received a letter

dated 9 March, 1993, filled with policy advice from Riady, who gave hundreds of thousands of dollars to the Democratic National Committee. Among other thing, the letter urged the president to normalize relations with Vietnam.

President Clinton 2 Dec. described the letter as being ''like tens of thousands of letters I get of people suggesting what our policy ought to be in various areas.''

SOLOMON DISTURBED

White House press secretary Mike McCurry denied Riady's suggestions played any part in the president's decision to lift the longstanding embargo.

But the Journal story created a furor on Capitol Hill, where several committees have expressed interest in probing the gifts by Riady's Lippo Group to the Democrats. One of those most disturbed was Rep. Gerald Solomon (R–NY), head of the Government Rules Committee, which is planning hearings on the issue.

In October, and again last month, Solomon requested from Secretary of Commerce Mickey Kantor ''all information'' involving contacts, agreements or ''other dealings'' with the Lippo Group, its founder Mochtar Riady, his son, Lippo executive James, and former Lippo executive and Commerce official James Huang and ''any influence of U.S. policy and the normalization of relations with the Socialist Republic of Vietnam.''

MORE INFORMATION

In particular, Solomon said, he wanted more information on Vietnam policy meetings called by Huang while he was deputy assistant secretary of international economic policy at Commerce and on efforts by Lippo to end the Vietnam embargo.

After reading the Journal story, Solomon fired off a letter to Clinton, asking why he had not been given a copy of the letter after his request for information, and requesting the White House to fax the letter to the Rules Committee.

The White House 4 Dec. faxed the letter to the House Committee on International Relations, which subsequently made it available to Solomon and other interested lawmakers and reporters.

Sources in Congress said the Rules Committee's investigation would be asking two key questions: First, was Clinton's decision to lift the U.S. trade embargo with Vietnam influenced by the Lippo Group's six-figure contributions and, second, did the administration leak advance information to Riady that the embargo was going to be lifted.

TRADE INITIATIVES

''The media has overplayed the idea that the president was influenced to lift the embargo and downplayed the second scenario,'' said a source close to the investigation. ''But we really think the second scenario is the more likely.''

The committee is particularly interested in whether advance information about the decision played a part in Vietnam ''trade initiatives'' hatched between Hong Kong-based Lippo, Ltd. and North Carolina's First Union Corp., sources said.

The lifting of the trade embargo was a difficult move for the president because of the emotional issue of POWs and MIAs still unaccounted for in Southeast Asia.

In 1992, Clinton said he did not think lifting the Vietnam embargo was a good idea.

REVERSAL

''I don't think we should normalize and then get an accounting [of American POWs and MIAs],'' he told The Washington Times. ''I think we ought to know where our people are. That's putting the cart before the horse.''

But after several visits to Vietnam by presidential advisors and lobbying by several visits to Vietnam by presidential advisors and lobbying by several congressmen, including former POW Sen. John McCain (R–AZ), Clinton reversed his position, saying, ''I am lifting the trade embargo against Vietnam because I am absolutely convinced that it offers us the best way to resolve the fate of those who remain missing and about whom we are not sure.''

SOLOMON STAFFERS WIDENING HUANG PROBE

WASHINGTON.—John Huang, a central figure in the investigation into Asian donations to Democrats, had more access to government secrets during his short tenure at the Commerce Department than previously disclosed, documents show.

The Commerce Department has identified 109 meetings in 1994 and 1994 attended by Huang and at which classified information ''might have been discussed,'' according to information released Tuesday.

Previously, the department disclosed 37 intelligence briefings Huang had attended while a deputy assistant secretary.

Investigators for House Rules Committee Chairman Gerald Solomon, R–Glens Falls, say they also have tracked other dates in which Huang received ''secret'' documents, then called the Los Angeles office of his former employer, the Indonesian-based Lippo Group.

Solomon has been investigating whether Huang, who later became a vice chairman of the Democratic National Committee, passed any secrets to Chinese government and business interests or to Lippo, a financial conglomerate with substantial interests in China.

In addition, the Justice Department is investigating whether the Chinese government plotted to influence U.S. elections last year by funneling illegal contributions to candidates and parties.

Huang, who had a top-secret security clearance while at the Commerce Department, has broadly denied wrongdoing. But he has refused to cooperate with congressional investigators, citing his Fifth Amendment right against self-incrimination. His lawyers did not immediately return calls to their offices Tuesday.

One week in May 1995 has stood out to investigators looking at Huang's activities at Commerce.

According to a summary prepared by Solomon's office, Huang received a document classified ''secret'' at 10 a.m. on May 4, 1995. Four hours later, Huang had a 10-minute call with Lippo's office in Los Angeles.

On May 9, 1995, Huang had a meeting scheduled with other senior Commerce officials on the ''status of Dragongate,'' a multi-billion-dollar Taiwanese power plant project. That afternoon, he made two short calls to Lippo. Taiwan was one area of interest for Huang.

The next day, Huang received additional secret documents and made two short calls to Lippo's office in Los Angeles.

[From the Washington Times, May 1997]

SOLOMON: IS COSCO ''STRATEGIC THREAT''?

(By Rowan Scarborough)

A senior House Republican yesterday asked Navy Secretary John H. Dalton to report whether the Chinese Ocean Shipping Co. (Cosco) represents a ''global tactical or strategic threat'' to the Navy.

The effort by Rep. Gerald B.H. Solomon, chairman of the House Rules Committee, to force the Navy to make an assessment is the latest development in a campaign to block Cosco from taking over the abandoned Long Beach Naval Station in California.

''In order to understand the magnitude of the growing threat of the PRC [People's Republic of China], I would like you to state the U.S. Navy's position on [Cosco],'' Mr. Solomon, New York Republican, wrote in a one-page letter to Mr. Dalton.

''Considering their potential world-wide information gathering capabilities, a history as the delivery system of weapons of mass destruction to terrorist countries and the size of this fleet under direct control of the communist regime—does Cosco pose a potential global tactical or strategic threat against the U.S. Navy?''

The Solomon letter represents a more specific question for the Navy. Before, congressional inquiries have centered on whether Cosco at Long Beach would be a regional threat. The congressman wants to know if Cosco, and its 600-ship fleet, poses a danger to the Navy itself.

Mr. Solomon was one of the first in Congress to speak out against the Chinese-Long Beach connection.

''This is almost a caricature of Lenin's prediction that the West will hand the rope to its Communist executioners,'' he said March 10. ''The Clinton administration seems to be going out of its way to help the most serious threat to American security, the so-called People's Republic of China.''

Cosco plans to lease 144 acres to operate a large container terminal, giving Beijing an important beachhead in making Cosco one of the world's largest carriers.

Lawmakers in recent weeks have emerged from closed-door intelligence briefings with conflicting interpretations.

Conservatives who oppose the deal say the intelligence shows Cosco is a tool of the Chinese People's Liberation Army, trafficking in weapons of mass destruction to known terrorist states such as Iran.

But local Long Beach legislators say the briefings show Cosco is not a threat.

President Clinton personally backed the city of Long Beach's overture to Cosco, after a commission had targeted the station for closure as part of armed forces downsizing.

The negotiations occurred at a time China is suspected of funneling millions of dollars in illegal campaign contributions into the United States in a government-sponsored operation to influence the 1996 election.

Some Republicans wonder if there is a connection between Cosco's expansion plans and the Democratic fund-raising scandal.

Reps. Duncan Hunter and Randy ''Duke'' Cunningham, both California Republicans, want to stop the Cosco-Long Beach marriage through legislation attached to the 1998 defense authorization bill. The House National Security Committee is schedule to write the bill next month.

However, the Cosco transaction may die before the Navy officially transfers the property to the city's Harbor Commission.

A coalition of conservationists and history buffs have filed suit to stop the project, which calls for leveling every naval station building.

A judge in Los Angeles has ordered the city to terminate the Cosco lease and reevaluate the plan's environmental impact.

The New York Times reported yesterday that a Clinton appointee, Dorothy Robyn, in November urged the preservationists to abandon their effort to save any buildings.

Miss Robyn, who serves on the National Economic Council, told the paper she made the calls as a favor to Long Beach's mayor. She said she had no contacts with Cosco officials.

Meanwhile, Sen. John McCain, Arizona Republican, has asked the Federal Maritime Commission to report whether Cosco is guilty of predatory pricing.

[From the Washington Times, May 1997]

SOLOMON SEEKS DETAILS AS NUMBER OF HUANG BRIEFINGS RISES

(By Jerry Seper)

The chairman of a House committee asked Commerce Secretary William M. Daley yesterday to explain briefings in which former Democratic fund-raiser John Huang may have receive classified information at 146 separate meetings instead of the 37 originally claimed or the 109 later acknowledged.

In a letter, Rep. Gerald B.H. Solomon, New York Republican and chairman of the House Rules Committee, also asked whether President Clinton or Vice President Al Gore attended some of those briefings, which the Commerce Department now says may have taken place at the White House.

Mr. Solomon's concerns were raised by a May 9 letter from Mr. Daley, who sought to explain published reports last month that Mr. Huang, now at the center of the growing campaign-finance scandal, received 109 classified intelligence briefings during his 18 months at Commerce, not the 37 previously acknowledged.

Mr. Daley said a recheck of the records showed that Mr. Huang received 37 ''intelligence briefings'' and may have attended 109 other meetings, including, some at the White House, ''at which classified material might have been discussed.'' He said 70 of those meetings were in 1994, and 39 were in 1995.

''These 109 meetings were not intelligence briefings,'' Mr. Daley wrote, although he acknowledged that classified information might have been made available.

Mr. Solomon, who first questioned Mr. Huang's possible ties to national-security violations and economic espionage and urged the FBI to investigate, told Mr. Daley his letter ''begged more questions than it answered.''

''With great concern and no little irritation, I now discover that John Huang received secret and top-secret information not merely 37 times, as the Commerce Department originally wanted Congress and the American people to believe, but possibly as many as 146 times,'' he said, adding that the questions surrounding Mr. Huang ''have long since gone beyond campaign financing to include possible espionage.''

''Until such time as Mr. Huang, who pled the Fifth Amendment, agrees to return to Washington and cooperate with Congress, the information I'm requesting would be helpful,'' he said. ''What's more, some of those meetings taking place at the White House may have included the president and vice president.''

He told Mr. Daley he wants a list of the 109 meetings at which classified material may have been discussed.

Last month, Mr. Solomon asked Mr. Clinton for a list of all meetings he had with Mr. Huang, and explanation for Mr. Huang's 1994 appointment as deputy assistant commerce secretary for international economic policy and a list of ''all meetings'' Mr. Huang had with other White House officials.

Sources close to the Rules Committee said Mr. Solomon is concerned about briefings in which Mr. Huang received classified information including documents stamped ''secret,'' after which telephone logs show he made calls to his previous employer, the Lippo Group.

Phone logs show 70 calls by Mr. Huang to Lippo Bank in Los Angeles and other calls to prominent Arkansas businessmen and lawyers with financial ties to Asia. The bank is controlled by the Lippo Group, a $6.9 billion conglomerate based in Indonesia. Mr. Huang was vice chairman of the bank until his Commerce appointment.

House investigators want to know how Mr. Huang received a top-secret security clearance five months before he reported to Commerce. Such a clearance was explained in a January 1994 memo as necessary ''due to the critical need for his expertise in the new administration'' of Commerce Secretary Ronald H. Brown.

He also was issued a ''consultant top-secret'' security clearance after he resigned at Commerce to become a fund-raiser at the Democratic National Committee. That clearance, issued in December 1995, remained in effect until December 1996, although it is not clear how he used it as a Democratic fund-raiser.

Mr. Huang, who became a U.S. citizen in 1976, has not been available for comment but previously denied any wrongdoing. He is believed to have returned to California.

SOLOMON QUESTIONS SECURITY AT FORMER BASE

WASHINGTON.—A high-ranking Republican lawmaker wants the Secretary of the Navy to determine if a Chinese shipping company seeking to lease a former naval base in Southern California poses a national security threat.

Rep. Gerald Solomon, R-Queensbury, wrote to Secretary of the Navy John H. Dalton Friday, asking if the Chinese Ocean Shipping Co., known as COSCO, poses ''a potential global tactical or strategic threat against the U.S. Navy.''

Dan Amon, a spokesman for Solomon, said the injury by the House Rules Committee chairman is simply an attempt to resolve controversy over COSCO's proposed lease of a $200 million shipping terminal to be build at the former Long Beach Naval Station.

The Clinton administration supported the city of Long Beach when it contacted the Chinese government-owned COSCO about leasing the naval base, which was a victim of military downsizing. But two California Republicans, Reps. Duncan Hunter and Randy Cunningham, want to stop the deal with an amendment to next year's defense spending bill. They say the lease will allow China to spy and smuggle weapons.

The controversy comes as the Justice Department investigates whether the Chinese government tried to influence 1996 elections with illegal campaign contributions

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[From MSNBC, June 10, 1997]

HUANG MAY HAVE PASSED TRADE SECRETS

(By Robert Windrem)

WASHINGTON.—U.S. intelligence agencies told the Senate Intelligence Committee last month that they have found there is evidence that former Assistant Commerce Secretary John Huang ''collected'' and ''passed'' U.S. trade secrets on to his former bosses at the multibillion-dollar Lippo Group of Indonesia, NBC News has learned.

According to a congressional staffer familiar with intelligence matters, the evidence was picked up at a U.S. electronic eavesdropping site targeted on trans-Pacific communications. The United States maintains an extensive network of eavesdropping sites around the Pacific Rim, from Yakima, Wash., to Pine Gap, Australia.

Huang raised millions of dollars for the Democratic National Committee from the Asian-American community after he left the Commerce Department in December 1995 to work as a Democratic fund-raiser. He is the focus of both congressional and Justice Department investigations.

By all accounts, Huang was an instant success, bringing in more cash from Asian-Americans than had been given to any previous president. But on Oct. 18, 1996, Huang was suspended from his job at the DNC after news surfaced that he had solicited a $250,000 South Korean donation in violation of U.S. laws against foreign political contributions. More questions were raised by Huang's dozens of visits to the White House in 1996. It could create a bad impression to have a fund-raiser spending so much time in the White House.

The congressional source said the focus of U.S. intelligence efforts now is what Huang did in the last few months of 1995 just before leaving for the DNC. Congressional critics, in particular Rep. Gerry Solomon, R–N.Y., have noted various meetings and phone calls in which Huang dealt with Lippo officials just before or just after a Commerce Department briefing.

One typical incident: According to phone records and logs, Huang called Lippo's Los Angeles office on Sept. 19, 1995, at 2:45 p.m., just 15 minutes before a classified briefing. After the briefing, at 5:34 p.m., he called Lippo back.

[From the San Diego Union-Tribune, May 11, 1997]

NAVY ASKED TO RULE ON THREAT OF CHINESE USING OLD BASE

(By Alice Ann Love)

WASHINGTON.—A high-ranking Republican lawmaker wants the secretary of the Navy to determine whether a Chinese shipping company seeking to lease a former naval base in Southern California poses a national security threat.

Rep. Gerald Solomon, R-N.Y., wrote to Secretary of the Navy John Dalton on Friday, asking whether the Chinese Ocean Shipping Co., known as COSCO, poses ''a potential global tactical or strategic threat against the U.S. Navy.''

Dan Amon, a spokesman for Solomon, said the inquiry by the House Rules Committee chairman is an attempt to resolve controversy over COSCO's proposed lease of a $200 million shipping terminal to be built at the former Long Beach Naval Station.

President Clinton's administration supported the city of Long Beach when the city contacted the Chinese government-owned COSCO about leasing the base, which was a victim of military downsizing.

But two California Republicans, Reps. Duncan Hunter of El Cajon and Randy Cunningham of Escondido, want to stop the deal with an amendment to next fiscal year's defense spending bill. They say the lease would allow China to spy and smuggle weapons.

The controversy comes as the Justice Department investigates whether the Chinese government tried to influence 1996 U.S. elections with illegal campaign contributions.

The Long Beach Harbor Commission says the new lease to COSCO, which has had a presence in the port for 16 years, would create 1,600 construction jobs over 1½ years, 600 permanent shipping jobs once completed and several hundred jobs elsewhere in the city.

The port would receive about $20 million a year in rent, while the city stands to reap about $1 million in taxes annually.

Local resistance has also stalled the lease. A group of Long Beach environmentalists and preservationists opposes the deal, saying historic buildings would be torn down.

Harbor commissioners face a hearing Tuesday before a Los Angeles Superior Court judge to prove that the project would comply with state environmental laws.

[From the Los Angeles Times, June 13, 1997]

HUANG ACCUSED OF ESPIONAGE—SOLOMON SAYS FUND RAISER SHARED CLASSIFIED INFORMATION TO LIPPO GROUP

WASHINGTON—John Huang, the former Clinton administration appointee and star

Democratic fundraiser, conveyed ''classified information'' to the Indonesia-based Lippo Group, Rep. Gerald Solomon alleged Thursday.

Solomon, R-Queensbury, chairman of the House Rules Committee, said he is aware of electronically gathered evidence—presumably telephone calls monitored by a U.S. intelligence agency—verifying that Huang relayed the information.

''I have received reports from government sources that say there are electronic intercepts which provide evidence confirming what I suspected all along, that John Huang committed economic espionage and breached our national security by passing classified information to his former employer, the Lippo Group,'' Solomon said.

The congressman and his aides declined to elaborate. They would not say, for instance, whether Solomon based his allegation on information provided directly by intelligence or law enforcement officials. The congressman does not serve on either the House Intelligence Committee or a separate panel that has jurisdiction to investigate Huang's activities.

FBI Director Louis J. Freeh, in recent weeks, has briefed members of the Senate and House Intelligence committees about the bureau's ongoing investigation of Huang and others. An FBI spokesman declined Thursday to comment on any aspect of the inquiry.

If Solomon's allegation proves credible, it would magnify the significance of the fund-raising scandal that already besets both President Clinton and Vice President Al Gore.

Documents disclosed earlier by the Commerce Department show that Huang made scores of calls on government phones to Lippo offices in Los Angeles. Some of those calls were made close to times when Huang was scheduled to attend classified briefings convened by the Commerce Department's Office of Intelligence Liaison.

The possibility that Huang passed classified data to Lippo is especially sensitive because the conglomerate is closely aligned with China.

[From the Wall Street Journal, July 1997]

CHINA, AFTER REQUEST FROM U.S., SEARCHES FOR CAMPAIGN DONOR

(By a Wall Street Journal Staff Reporter)

SHANGHAI, China—Responding to a request from Secretary of State Madeleine Albright, Chinese authorities are looking for Charlie Trie, an Arkansas-based restaurateur involved in the U.S. campaign fund-raising controversy.

Agents of China's State Security Ministry have made inquiries with people who may have been in touch with Mr. Trie since he came to this country, possibly to avoid questioning in the U.S. Some of those who were contacted say the authorities didn't appear to know his location.

Mr. Trie, a Taiwan-born entrepreneur who became close to Bill Clinton when they both lived in Little Rock, Ark., owns a restaurant in Beijing and has been involved in property projects in Shanghai and other Chinese cities. He contributed heavily to Mr. Clinton's reelection campaign, and tried to give $600,000 to the president's legal defense fund. (That money was rejected because of questions about the money's origins.)

In June, Mr. Trie came to Shanghai for an off-camera interview with NBC News, but acquaintances say he isn't living here.

Yesterday, Rep. Gerald Solomon (R., N.Y.) disclosed that Mrs. Albright last week asked the Chinese government to help find Mr. Trie. The State Department instructed the U.S. Embassy in Beijing to underscore that request, Barbara Larkin, assistant secretary of state for legislative affairs, wrote in a letter to Mr. Solomon.

[From the New York Times, July 23, 1997]

STATE DEPARTMENT ASKS CHINA TO HELP FIND FORMER FUND-RAISER

(By Leslie Wayne)

WASHINGTON, July 23—Under pressure from House campaign-finance investigators, the State Department has asked the Chinese Government to help locate Yah Lin Trie, a central figure in the Democratic fund-raising controversy, according to a State Department letter released today.

The letter was made public by Representative Gerald B. H. Solomon, the New York republican who heads the house Rules Committee and who is an outspoken critic of Democratic campaign fund-raising practices.

''I am pleased to inform you that, on July 14, the department communicated to the Chinese Government your interest in determining Mr. Trie's location,'' said the letter, which Mr. Solomon received earlier this week.

It continued: ''We informed the Chinese Government that this is a high priority in which Secretary Albright is personally interested. In order to emphasize the importance we attach to this matter, we have also instructed our embassy in Beijing to communicate your request to the Chinese Government there.''

Mr. Trie, a onetime Little Rock restaurateur and longtime friend of Mr. Clinton, raised more than $645,000 in donations that have been returned because of their questionable origin. In addition, investigators are looking at $470,000 in money transfers to Mr. Trie from an account in Macao. They were made about the time he brought cash donations to the Democratic Party or money from donors who cannot be found.

Mr. Trie, a naturalized American citizen, returned to China after the campaign finance investigations began. He has refused to testify before Congressional investigators. In an interview in Shanghai with NBC News in June, Mr. Trie said he had no plans to return to the United States.

''They'll never find me,'' he told NBC.

Three weeks ago the Clinton Administration said it preferred not to ask China for help finding Mr. Trie, citing questions of conflict of interest between the White House and the Congressional investigation.

[From the Washington Times, July 23, 1997]

STATE DEPARTMENT ASKS CHINA TO HELP LOCATE ELUSIVE TRIE

(By Jerry Seper)

The State Department has asked China for help in finding Democratic fund-raiser Charles Yah Lin Trie, a key figure in congressional and Justice Department investigations into accusations that foreign governments sought to influence the 1996 elections.

Barbara Larkin, assistant secretary of state for legislative affairs, said in a letter yesterday to Rep. Gerald B. H. Solomon, chairman of the House Rules Committee, that a request was made of the Chinese government on July 14, and that the U.S. Embassy in Beijing would make a follow-up request in person.

''Secretary [Madeleine K.] Albright has repeatedly made clear her commitment to do everything within her authority to assist Congress in its investigations regarding alleged violations of federal campaign financing laws,'' Mrs. Larkin wrote. ''We informed the Chinese government this is a high priority in which Secretary Albright is personally interested.''

Mr. Trie disappeared in China after surfacing in the campaign-finance probes of Congress and the Justice Department. Mr. Solomon asked the White House on July 3 for help in finding him.

The New York Republican, who described Mr. Trie as a key figure in Congress' inquiries, wants the department to assist congressional investigators in locating and obtaining evidence from the Arkansas businessman. He has questioned Mr. Trie's ties to the fund-raising scandal and his relationships with John Huang and Chinese arms dealer Wang Jun, both White House visitors.

Mr. Trie, who was interviewed in Shanghai by NBC's ''Nightly News'' but who has eluded congressional and federal investigators, has boasted he could hid in Asia for 10 years and has said he had no plans to return to the United States to answer questions by congressional investigators.

A subpoena was issued for him in February by the House Government Reform and Oversight Committee.

Mr. Trie, who ran a Chinese restaurant in Little Rock near the Arkansas State House where he first met Bill Clinton, then governor, came to public notice after the President's Legal Defense Fund announced it was returning $640,000 in donations he collected.

The cash, delivered in two envelopes, was returned when fund executives said they did not know its source. The donations included checks with signatures that matched those on other checks and money orders numbered sequentially but from different cities.

In a statement, Mr. Solomon said it was ''refreshing to see a Cabinet secretary in this administration willing to take a strong personal interest in helping us get to the bottom of such serious matters.''

Besides the Legal Defense Fund donations, House investigators want to know what role Mr. Trie played in getting Mr. Wang, chairman of China's Poly Technologies Ltd., to a White House meeting in February with Mr. Clinton. Two months later, Poly Technologies, which makes weapons for the Chinese military, was identified by U.S. Customs Service agents as a target in a sting operation to deliver 2,000 AK–47s to the United States.

White House records show Mr. Wang, as Mr. Trie's guest, met with Mr. Clinton at a reception with several Democratic campaign contributors. Mr. Huang arranged for Mr. Trie to attend a White House coffee with Mr. Clinton.

Mr. Solomon said that China could ''easily return Mr. Trie . . . if it had a will to do so.''

[From the New York Times, July 27, 1997]

SAVING FACEPOWDER

(By William Safire)

WASHINGTON—It was mid-October, the final month of the 1996 Presidential campaign. A column in this space titled ''The Asian Connection'' had just appeared, followed the next day by a front-page article about John Huang's fund-raising in The Wall Street Journal. Though TV lagged, The L.A. Times and New York Times were advancing the story of illegal Asian money flowing into the Democratic campaign.

But silence from the Republicans. Not only were they not the original source of the story, they offered little newsworthy reaction. I ran into Haley Barbour, then chairman of the Republican National Committee, campaigning in Birmingham, Ala., and put it to him: Did he have a statement?

His reply: ''This is something for Ross Perot to hit hard.'' That struck me as curious; why Perot, the third-party candidate—why not Dole and Barbour? I put it down to the Republican inability to react swiftly to news.

Now it comes clear. Haley must have been worried that the Asian connection would boomerang.

The Republican think tank he headed—an adjunct to the R.N.C.—had in 1994 borrowed $2 million on the collateral of Ambrous Tung Young, a citizen of Taiwan.

Haley made the deal aboard a yacht in Hong Kong and was reluctant at first to blast Clinton for foreign fund-raising.

At the Thompson hearings, that G.O.P. fund-raising chicken has come home to roost. As usual, most media coverage of the Barbour appearance centered on the witness's performance—''spirited,'' ''well-prepared,'' ''combative''—and less on the evidence of wrongdoing developed. We cover the show but ignore the case.

The case is that a top Republican official solicited a huge loan from a foreign national. The millions traveled through an affiliated think tank to the National Committee and—because money is fungible—materially helped G.O.P. political campaigns.

Barbour insists this shell game was legal; if so, the law needs tightening. He borrowed from a foreigner on the anticipation of a favorable I.R.S. ruling on a think tank's status; that was foolish and—most damaging to his reputation—politically debilitating. His Republicans stiffed Mr. Young for half his loan and now the R.N.C. must make him whole.

The Asian lender used a colorful expression to explain his loan: not just to gain influence and access, but ''to put powder on my face.'' That usually derisive Chinese phrase—tu zhi mo fen, ''rouge and powder''—means ''to hide blemishes with makeup,'' its extended meaning ''to improve one's image with superiors.''

That's behind some foreign giving. But to equate the one-time ethical lapse of a G.O.P. campaign chief with the sustained, widespread, and probably espionage-ridden marriage of Asian money to the Clinton-Gore White House is to fall for the ''everybody does it'' excuse.

''Everybody doesn't do it,'' said Barbour (meaning, ''Not everybody does it''). He's right; the scale of the Clinton-Gore Great Asian Access Sale is unprecedented, its pattern of cover-up unique.

The White House-Commerce cover-up has spread to the Justice Department. Lest credible evidence be developed by the Senate implicating a ''covered person'' (Vice President Gore), Janet Reno resisted allowing victimized nuns to testify publicly. Not even Democratic senators could swallow that insult.

In the same way, when the House's Burton committee subpoenaed Justice Department records of $700,000 in wire transfers from Vietnam to an account in the Bank Indo-Suez supposedly controlled by Ron Brown, Justice responded three days later with a subpoena for all Chairman Burton's election records.

Dan Burton is undeterred. His committee will hire a D.C. superlawyer or former U.S. Attorney as counsel this week.

Its staff is quietly taking depositions from aides to White House chiefs of staff and now-unprivileged counsel.

The vital power to depose witnesses under oath was voted at the behest of House Rules Chairman Gerry Solomon, who last week induced Secretary of State Albright to help bring Charlie Trie back from his Chinese hideout. Solomon, first in Congress to blow the whistle on espionage, gets few headlines but gets results.

Republicans who make mistakes and try to brazen their way out will get roughed up in the investigations; that's healthy.

But let us keep our eye on the main arena: the Clinton-Gore sale of influence to agents of Beijing.

TO AVOID SUCH A DISGRACE

(By William Safire)

If by the first week in October Attorney General Janet Reno does not seek appointment of Independent Counsel, she may well be the first Cabinet member since William Belknap in 1876 to be impeached.

That is the clear import of three coordinated letters, all dated Sept. 3 and delivered to the Justice Department last week.

One is a 23-page missive signed by every member of the majority of the House Judiciary Committee, delineating evidence that Federal crimes may have been committed by officials covered by the Independent Counsel Act. The crimes include bribery, use of the White House for political purposes, misuse of tax-exempt organizations and extortion of campaign contributions.

The second letter, from every member of the majority of the House Rules Committee, notes that the weak excuse given by Ms. Reno for refusing to trigger the act—that Vice President Gore's solicitations from the White House were only for ''soft money''—had been shattered by the revelation that the Democratic National Committee allocated funds raised by Gore from Federal property as ''hard money'' for the Clinton-Gore campaign.

Because Congressional committees do not issue threats, a third letter came from an individual member, House Rules Chairman Gerald Solomon, to inform her of the serious consequences of her continued stone-walling

''With credible evidence reported by Mr. Robert Woodward in today's Washington Post that Vice President Gore . . . may have committed a felony,'' wrote Solomon. ''I can not conceive you can so willfully neglect your duty . . . I should inform you that the mood in Congress to remove you grows daily.

If it should ever come to that. Ms. Reno's best defense would be to blame the egregious ineptitude of the vaunted ''career professionals'' in what Justice laughably calls its Public Integrity Section.

It is now 11 months since the Asian Connection story broke. In all that time, it never occurred to those humbling Justice bureaucrats to travel a few blocks over to the D.N.C. to find out if money raised from inside the White House was used to buy Clinton-Gore commercials. They waited to read about the crime in the Washington Post. Their lame excuse: ''The focus of our energies was elsewhere.''

But those conflicted, slow-walking ''energies'' have not been focused on tracking down and bringing back Little Rock's Charlie Trie, a suspected dirty-money conduit now lying low in Beijing. We rightly criticize Whitewater Independent Counsel Ken Starr for being slow; Clinton's in-house Dependent Counsel are hip-deep in Democratic molasses.

The sad part of all this is that Reno and Gore are paying the price for the political fund-raising strategy set not by them but by Bill Clinton in his infamous Sept. 13, 1995, Oval Office sellout to Rlady, Huang and company.

Gore is a serious person, solid on foreign affairs except for some global warming nuttiness, and I confess to liking and often admiring him. But Clinton's anything-goes political morality reduced Gore to describing 86 wrongful calls as ''a few occasions.'' John Huang, D.N.C. fund-raising vice chairman, brought a Buddhist leader into Gore's office to arrange a temple event; the event illegally raised $100,000; now Gore professes to never have known it was a fund raiser.

But here's a campaign memo from Gore's scheduler asking him to choose: give a speech to a long Island Jewish group or ''do the two fundraisers in San Joe and LA.'' Gore replies, ''if we have already booked the fundraisers then we have to decline.'' To call that Buddhist fundraiser ''community outreach'' takes a long reach.

Gore's followers, who see him as a Clinton with integrity, are circling the wagons, expecting two years of assault by Independent Counsel when Reno chooses honor over impeachment. Martin Peretz, owner of the New Republic, has just fired his editor-columnist, the gutsily gifted Michael Kelly, for taking too strong a stand against Clinton-Gore campaign crimes.

But John Huang and Johnny Chung will be flipped; Web Hubbell will be re-indicted and Jim Guy Tucker convicted; House committees will surprise: the F.B.I. will shake its shackles; media momentum will build; and justice, despite the Department of Justice, will be done.

[From the Washington Times, May 1997]

NO MFN WITHOUT TRIE, SOLOMON HINTS—URGES CLINTON TO PRESSURE CHINA

(By Jerry Seper)

The chairman of a House committee yesterday asked President Clinton to help find Arkansas businessman Charles Yah Lin Trie, who disappeared in China after surfacing in Congress' campaign finance probe, and he suggested that China's most-favored-nation status could be in jeopardy if the president refuses.

Rep. Gerald B.H. Solomon, New York Republican and chairman of the House Rules Committee, said that because of Mr. Trie's ties to the growing fund-raising scandal and his relationships with John Huang and Chinese arms dealer Wang Jun, Mr. Clinton should direct Secretary of State Madeleine K. Albright to determine his whereabouts.

''If Mr. Trie is indeed in China, it is vital he be returned before any renewal of the most-favored-nation trading status even be considered,'' Mr. Solomon said. ''That is not to say the return of Mr. Trie would convince me and a number of other members that renewing China's MFN status is advisable, considering that nation's performance in other areas.

''But Congress also has the duty to investigate any undue influence on U.S.-China policy, and Mr. Trie would be helpful in that regard,'' said Mr. Solomon, an outspoken opponent of giving China MFN status.

Congress is scheduled to begin debate next month on Mr. Clinton's expected decision to extend China's most-favored-nation trading status for another year. MFN status gives China's products low-tariff access to U.S. markets, similar to those enjoyed by most other U.S. trading partners. Revoking it would price most Chinese products out of the market.

White House Special Associate Counsel Lanny J. Davis declined comment on the letter, but said, ''I can state as a general matter, the president is fully committed to cooperating with the congressional committees and encourages others to do so.''

House investigators want to talk with Mr. Trie, former Little Rock restaurateur and Democratic National Committee fund-raiser, about his delivery of $640,000 in questionable contributions to Mr. Clinton's legal-defense fund. The contributions were later returned when legal-defense fund investigators found they could not establish the source of the money, which included checks with signatures that matched those on some other checks, and money orders that were sequentially numbered but purportedly came from people in different cities.

They also want to know what role Mr. Trie played in getting Mr. Wang, chairman of China's Poly Technologies Ltd., into a White House reception last February with Mr. Clinton. Two months after that reception, Poly

Technologies, which makes weapons for the Chinese military, was identified by U.S. Customs Service agents as a target in a sting operation that had been about to deliver 2,000 AK–47s to U.S. criminals.

Mr. Wang, according to White House records, met with Mr. Clinton at a reception with several Democratic campaign contributors. The records show he was Mr. Trie's guest at the event.

Mr. Trie and Mr. Huang have been described as longtime Arkansas friends of the president. It was Mr. Huang who arranged for Mr. Trie to attend a White House coffee with Mr. Clinton. Both men are now at the center of investigations by a Justice Department-FBI task force and Congress into irregularities involving money that was raised for Mr. Clinton's reelection and his legal-defense fund.

Mr. Clinton, who appointed Mr. Trie to the Commission on U.S. Pacific Trade and Investment Policy in April 1996, has said he did not know his longtime friend was collecting money for his legal-defense fund until after the fact.

Mr. Solomon said the Chinese government could ''easily return Mr. Trie to the United States if it had a will to do so,'' and that refusing a request by Mr. Clinton—through Miss Albright—''would certainly raise even more questions about any nation wanting good relations with the United States.''

Mr. Solomon also asked Mr. Clinton to turn over any background reports or investigations the White House possesses regarding Mr. Trie's appointment to the Commission on U.S. Pacific Trade and Investment Policy.

[From the Washington Post, July 17, 1997]

WAS JOHN HUANG DEBRIEFED?

(By Robert D. Novak)

A previously missing government form that should have indicated whether John Huang was debriefed by a security officer before the left the Commerce Department two years ago turned up last Friday. But the place where the now infamous Democratic fund-raiser was supposed to have signed is blank.

Any government official with top-secret access—Deputy Assistant Secretary of Commerce Huang included—must attest to the return of all classified information when debriefed as he leaves the government. But Huang's unsigned debriefing document underlines questions about what he did with government secrets and how well they were protected.

Complete answers can come only from investigators with subpoena powers. Contrary to the White House mantra, current Senate hearings concern much more than campaign finance reform—such as Huang's security clearance, dubious on its face. Immediately following CIA briefings, Huang would regularly contact the Chinese Embassy. Yet, even after resigning from the government and going to the Democratic National Committee (DNC), he received another security clearance. The CIA, which had given him documents, was not alerted to Huang's change of status.

Under the Freedom of Information Act, the conservative weekly Human Events several weeks ago obtained from the Commerce Department Huang's ''Separation Clearance Certificate,'' noting that his ''effective date of separation'' was Jan. 17, 1995 (though he actually went to the DNC in December). Commerce officials signed the document on Jan. 22, noting Huang's return of government charge cards, his parking permit and his diplomatic passport. ''Security debriefing and credentials'' was noted and signed by a Commerce Department security officer named Robert W. Mack.

At that debriefing, Huang should have signed a Standard Form 312 acknowledging return of classified material. But an official Commerce spokesman told Human Events editor Terrence Jeffrey two weeks ago: ''The recollection of our security personnel is that he [Huang] was debriefed but that a Standard Form 312 has not been located.''

What's more, there are indications it was never given to congressional investigating committees. On July 3, Rep. Jerry Solomon (R–N.Y.), chairman of the House Rules Committee, wrote Commerce Secretary William Daley demanding the Form 312 by July 9.

That deadlines came and went, but late on Friday, July 11, the pieces of paper was dispatched to Solomon. It showed that on July 18, 1994, Huang signed for his security briefing. But Huang never signed the debriefing acknowledgement that ''I have returned all classified information in my custody.''

If security officer Mack signed off for the debriefing, why didn't Huang? ''For reasons that we have not determined,'' Commerce press officer Maria Cardona told me. I called Mack himself, but he said he could not reply. ''When you're as low on the totem pole as I am . . .'' he said, trailing off.

However, an unsigned Commerce document of Dec. 9, 1996, supplied to Solomon earlier this year, quotes Mack as saying that ''he personally briefed Huang and had him sign a SF–312'' in July 1994 but adds: ''Mack has no recall of the debriefing'' the following January. The memorandum continues that ''he does recall'' a call from a high-ranking official ''to make sure that Huang did not lose his top-secret clearance'' but kept it as a ''consultant.''

''Mack said to the best of his knowledge, Huang never worked as a consultant, but DISCO [Defense Industrial Security Clearance Office] did issue a top-secret clearance to Huang. . . . DISCO has never been notified to cancel the clearance,'' the memo continued. The memo writer said the clearance, issued on Dec. 14, 1995, was still valid on Dec. 9, 1996.

Yet another mysterious document: Commerce security officer Richard Duncan—Mack's colleague—on Feb. 13, 1995, wrote an internal memo listing Huang among other officials as signing SF–312s. Was this an attempt to create a paper trail?

This is the curious conclusion of John Huang's access to secret information. It began with the official request Jan. 31, 1994 that the required background investigation for Huang be waived because of ''the critical need for his expertise . . . by Secretary [Ron] Brown.'' When Huang resigned a year later, Assistant Secretary Charles Meissner proposed the consultant's role, in order for Huang to retain access to classified documents. Brown and Meissner both perished in the tragic plane crash in Croatia, but their patronage of John Huang remains a fit subject for scrutiny.

[From Time Warner Pathfinder, Nov. 4, 1997]

INQUIRY SOUGHT INTO CHINA STOCKS

(By Marcy Gordon, AP Business Writer)

WASHINGTON (AP).—A senior congressman wants an investigation of the possibility that China may be skirting U.S. disclosure laws in sales of stock in its big government-owned companies.

Rep. Gerald Solomon, R-N.Y., who heads the House Rules Committee, recently told the chairman of the Securities and Exchange Commission, Arthur Levitt Jr., that the Chinese actions represent ''a potential threat to our country.''

He urged Levitt to take appropriate action, possibly including an investigation.

At issue is the sale to U.S. investors a chunk of giant state-owned China Telecom. Its special New York shares began trading on the New York Stock Exchange on Oct. 22.

In an Oct. 20 letter to Levitt, Solomon cited a Bloomberg News story that quoted China's communications minister as saying the government would ease accounting rules to boost China Telecom's profits.

The statement by Wu Jichuan came in mid-October as shares of companies backed by China plunged on the Hong Kong stock market.

Solomon called Wu's reported statement ''cynical, manipulative and direct evidence of fraud.''

''The highest priority of American securities law is to provide accurate information to the American investor, and (China's) actions flout that objective,'' he wrote Levitt.

The lawmaker expressed similar concerns about two other government-owned companies, China Southern Airlines and Beijing Enterprises, which also are expected to sell special shares in the United States.

At the same time, Solomon and Sen. Lauch Faircloth, R-N.C., are pushing House and Senate bills that would establish a new Office of National Security within the SEC to monitor foreign involvement in U.S. securities markets, financial institutions and pension funds. The legislation doesn't name any countries specifically.

Solomon is to testify Wednesday at a hearing on the issue by the Senate Banking subcommittee on financial institutions.

SEC spokesman Christopher Ullman declined comment on Solomon's letters to Levitt and the proposed legislation. Spokesmen at the Chinese Embassy didn't immediately return a telephone call seeking comment.

[From the Washington Times, November 1997]

17 IN HOUSE WANT CLINTON IMPEACHED—BARR LEADS CHARGE TO FORCE HYDE TO BEGIN INQUIRY

(By Mary Ann Akers)

The House Rules Committee yesterday took the first step toward initiating impeachment proceedings against President Clinton after 17 House conservatives raised the issue in a formal resolution.

Talk of impeachment, which was laughed off by the White House and dismissed as incredible even by most Republicans, was sparked by Rep. Bob Barr, Georgia Republican. His resolution calls for an ''inquiry of impeachment'' on everything from the 1996 campaign fund-raising scandal to the FBI files and White House travel office issues.

''I believe William Jefferson Clinton . . . has violated the rule of law, and however difficult it may be to go down the dark tunnel of impeachment, at the end of the tunnel there is light,'' Mr. Barr said.

Although the resolution has little chance of passing the House or making its way to the House Judiciary Committee for a formal review of impeachment, it is still likely to spark yet another line of investigation of the White House—this time by the Rules Committee.

Rep. Gerald B.H. Solomon, New York Republican and chairman of the panel, indicated he would hold hearings soon relating to ''the matter of the president and others in their potential illegal activities as custodians of the executive branch of the United States.'' He did not set a date.

This investigation would be parallel to the one being conducted by the House Government Reform and Oversight Committee under Rep. Dan Burton, Indiana Republican.

Mr. Barr's plan was to have his resolution go to the Rules Committee first, then to the Judiciary Committee, which has jurisdiction over impeachment proceedings, and finally to the House floor.

But House Judiciary Chairman Henry J. Hyde, Illinois Republican, made it clear yesterday that he wants no part of the impeachment inquiry and disagreed with Mr. Barr's assessment that the current fund-raising scandal is as serious as Watergate.

''The state of play is quite different now than it was then,'' Mr. Hyde said.

Among the differences Mr. Hyde noted: President Nixon's approval ratings were very low; two former attorneys general, John Mitchell and Richard Kleindienst, along with Mr. Nixon's general counsel, John Dean, had been convicted of felonies; Mr. Nixon himself had been named an unindicted co-conspirator; and a rash of other administration officials had either pleaded guilty to crimes or been forced to resign.

By contrast, Mr. Clinton has been enjoying unusually high approval ratings lately, no one in his administration has been indicted for anything relating to fund raising and the ongoing Justice Department or congressional probes have not yet demonstrated that crimes were committed by anyone in the Clinton administration.

''Impeachment is a very political act. It is a Draconian act, and ultimately it must be a bipartisan act,'' Mr. Hyde said.

Only one president in U.S. history has ever been impeached—Andrew Johnson in 1868 for firing his secretary of war without cause and without consent of the Senate.

House Republican leaders, meanwhile, indicated they were not as actively behind the impeachment inquiry resolution as Mr. Barr had implied to reporters.

''The speaker is aware of what we're doing here today, is supportive of it,'' Mr. Barr said. But a spokeswoman for House Speaker Newt Gingrich, Georgia Republican, said only, ''Speaker Gingrich is aware of Mr. Barr's resolution and feels it quite sobering that 17 members find this appropriate.''

At the White House, Mr. Clinton said of Mr. Barr, ''He's always had a rather extreme view of these things.''

White House Press Secretary Michael McCurry added: ''In any body of 535 people, there will always be a denominator that's lowest. And we've seen this from Barr before. . . . Every time things get a little quiet on the [scandal] inquiry front, he pops off about impeachment to get you all excited.''

WHITE WATER—CHINA HAWKS WARN OF BEIJING'S BONDS

(By Timothy W. Maier)

The China hawks are armed with a get-tough-on-China bill that could limit Beijing's access to the U.S. capital market. The bill, called the U.S. Market Securities Act, sailed through a Senate Banking subcommittee last month and now is traveling full-speed ahead for a possible vote next year in the House and Senate.

Supporters say the measure takes the first step in providing both national-security protection and a safeguard for taxpayers by creating a screening process at the Securities Exchange Commission, or SEC, to monitor fund-raising activities of companies with ties to Beijing. Opponents say it will be an expensive federal regulatory nightmare that won't work.

But to Wall Street's dismay, the legislation is gathering strong support on Capitol Hill. The China hawks claim Beijing fails to disclose its business dealings with military enterprises. They fear that of the funds being raised by the Chinese communist regime, close to $7 billion from bonds, may be finding their way into the arms of the People's Liberation Army, or PLA—the same army that rolled tanks into Tiananmen Square to crush a pro-democracy demonstration in 1989.

The U.S. Treasury Department does not restrict foreign countries from the bond market unless they are subject to embargo or trade sanctions, even if a national-security concern exists. The legislation doesn't sit too well with Wall Street. Economists warn that the day the bill is passed the Hong Kong flu that rocked the American stock market two days before the subcommittee held hearings on it will return with a vengeance.

A temporary market setback, however unlikely, is a small price to pay to ensure national security, says Roger Robinson, a senior director of international economic affairs at the National Security Council under President Reagan and one of the principal architects of the bill. ''If China is not doing the wrong thing, it has nothing to worry about,'' he insists. ''All we want is a list of names. The American people have inquiring minds and they want to know. What we want to know is who were the funders and suppliers that paid for weapons of mass destruction now held by Iraq. We can't answer that because we don't know.''

Charles Wolf, dean of the Rand Institute's graduate school of political studies, doesn't buy the story that the money is supporting missiles for the PLA. Wolf says, ''The hawks start the premise by saying China is doing as much as they can get away with, but that's like asking, How many angels can sit on the head of a pin? There is some indirect borrowing or some indirect leakage to the military, but it is not all that big a deal. What is a big deal is pursuing military modernization, especially the Russians. But that's something the intelligence agencies and military should do. I don't think that is the purview of the SEC.''

But Robinson points to China International Trust and Investment Corp., or CITIC, which is run by kaffeeklatsch guest and PLA arms dealer Wang Jun, to show it's not the amount of money but the potentially devastating quality of some of these weapons. For example, CITIC received $800 million from 15 bonds, and some of those funds may have drifted into Wang's weapons company, Poly Technologies—which last year was caught smuggling 2,000 AK–47 assault rifles to California street gangs and which tried to sell rockets capable of bringing down jetliners.

''How would we feel if a street gang shot down a national airliner?'' Robinson asks. ''When you have the wrong management with the wrong reporting structure and not a true corporate identity, you have the ingredients in today's information and technology age for world-class incidents and national-security challenges.''

Leading the charge that is gaining considerable support on Capitol Hill are Senate Banking subcommittee on Financial Institutions and Regulatory Relief chairman Lauch Faircloth of North Carolina and House Rules Chairman Gerald Solomon of New York. The bill these conservative Republicans introduced in the Senate and House also asks the Pension Benefit Guaranty Corp., a federal agency, to issue annual reports on communist China's securities that are held in the portfolios of pension funds—a protection for the American taxpayer.

On Nov. 5, Solomon spelled out the significance of the bill be predicting economic warfare soon will supersede more-traditional forms of conflict. ''With the emergence of the new global economy creating megamergers involving many foreign conglomerates, some of which are reported to involve international Mafia connections and drug-cartel monies, this Office of National Security within the SEC is an absolute must. In other words, we need a special watchdog agency specifically committed to making sure no entity can engineer fluctuations that could bring our markets down.''

And Faircloth tells Insight the bill simply is trying to protect the hard-earned savings of the American taxpayer. ''We must take steps to ensure that the average American investor enjoys the same market protection abroad that he does here stateside,'' Faircloth says. ''In other words, the American investment must be alerted to the insider trading, adulterated disclosure and manipulated accounting standards commonly practiced in the debt and equity markets of countries such as China. Further, the American people need to be aware that through their pension and mutual-fund investments they may be unwittingly supporting the modernization of the Chinese military.''

The bill has bipartisan support from the left-wing, Berkeley-based environmental watchdog group International Rivers Network, or IRN. The group last month launched an advertising blitz calling on American investors to order their fund managers to dump all investments tied with China's State Development Bank, which is behind the huge Three Gorges Dam project. IRN Executive Director Owen Lammers calls it one of the ''largest and most environmentally and socially destructive projects on Earth,'' claiming it will not improve flood control or provide the electrical power needed but instead will displace 1.9 million people. ''We're asking investors to tell their fund managers to get out of those bonds supporting this,'' Lammers tells Insight.

Investors probably have very little idea about how the money is spent based on the perspectives the Beijing banks provide. The State Development Bank supplies a list of 10 projects under development and less than 200 words about the Three Gorges Dam. ''They technically disguise this project claiming it will cost $30 billion but unofficially will likely cost $75 billion because they are building a dam that would stretch from Boston to New York,'' Lammers says.

Insight also obtained hundreds of pages of SEC documents involving other Chinese companies, and what is apparent is what is not present. Red Chinese entities are short on specifics and background information, especially regarding Wang Jun and his ties to the military. The lack of detailed prospectuses is one of the reasons why Randolph Shih Shung Quon, a Chinese-American financial consultant who worked in Hong Kong as an adviser to the Chinese Central Bank from 1993 to 1995, is demanding that the SEC investigate Beijing's offerings underwritten by some leading investment firms such as Goldman Sachs & Co. and Morgan Stanley, Dean Witter, Discover & Co. The SEC is not commenting.

Quon wants to know why foreign countries such as the People's Republic of China are not held to the same threshold of disclosure as American companies. Now based in Washington at the Free Congress Foundation, a conservative think tank, Quon claims he fled to the United States after reporting fraudulent activities among the Beijing princelings' children. ''Whether the Chinese government can be trusted to play by the rules, I have serious doubts,'' Quon tells Insight. ''This is the time to lay down the law in Asia. There is no level playing field. They are like 19th-century barons.''

Quon, who testified at the subcommittee hearings, called for SEC investigations into several high-profile stock and bond deals claiming disclosure violations. For example, he says that just before the $4.2 billion China Telecom offering Wu Jichuan, communist China's minister of posts and telecommunications, stated the government soon would hand over valuable assets to the new company. Wu also declared he would allow China Telecom to book certain networks that normally would go through state companies. In addition, Quon notes the China Telecom prospectus filed with the SEC failed to disclose

Hong Kong billionaire Li Kashing had been found to be involved in an insider-trading scheme and that Li controlled companies that in turn controlled 10 percent of China Telecom.

Michael J. Evans, managing director of Goldman Sachs, the firm that handled the offering, did not return repeated phone messages left at his offices in Hong Kong, London and New York. However, Evans has claimed in other interviews that his firm followed the letter and spirit of U.S. securities law, that Wu only repeated points made in the China Telecom prospectus and that any fee adjustments would have to be reviewed by SEC.

Some economists and Wall Street watchers warn that the legislative proposal creates a costly layer of bureaucracy and is impossible to enforce because, they argue, once funds go to a state-owned company, Beijing still could covertly divert the money to the PLA. ''This is a chapter out of Alice in Wonderland,'' says Steve Hanke, a professor of economics at Johns Hopkins and former Reagan economic adviser. ''I can't conceive how you would make certain the money would stay in state-owned enterprises. Even if it could be done, would it make any difference? The answer is no.''

Hanke says the money just would be funneled from another source and there is no possible way to monitor every single dollar. ''This is a full-employment bill for bureaucratic parasites that want to be doing something. It's jobs for the boys—for the bureaucrats in Washington who want to regulate something that is over China. The effect of this bill in China? You couldn't find it on the radar screen. You won't have any effect in what's going on in China. The administrative expense will cost us and it will cost them. It's going to raise the cost of Chinese doing business. It will be more difficult to make these bond issues.'' v. . . . Intelligence specialists including Robinson strongly disagree with Hanke's evaluation, claiming this simply could be done with one person plugging names into a computer and sending information to Congress for intelligence reviews.

''The idea that it is some costly process is rubbish,'' insists Robinson, who President Reagan credited as being ''the architect of a security-minded and cohesive U.S. East-West economic policy.'' If it is done, Robinson predicts huge defaults that ultimately would be paid by U.S. taxpayers.

To understand the seriousness of the situation, one must look no further than Beijing's major banks, which effectively are bankrupt because of $90 billion in nonperforming loans, says Robinson. Beijing acknowledges that 20 percent of all the bank loans have turned sour, although most analysts say that is an underestimate. Consider the recent bank failure in Japan—triggered by 8 percent nonperforming loans. The People's Republic of China has a banking crisis, with U.S. taxpayers potentially picking up the bill, Robinson says.

The Economist refers to these banks as ''unstable and mired in debt,'' because the ''banks' senior executives rarely are given reliable information by their loan officers.'' Peter Schweizer, a scholar at the Hoover Institution, says investing in bonds issued by these banks could be a disaster waiting to happen. ''U.S. pension funds and individuals who have invested in these bonds could end up holding worthless paper,'' he says.

Is Red China's debt really cause for concern? Tom Byrne, vice president and senior analyst at Moodys' Investors Service in New York, tells Insight he thinks the debt is manageable. ''It is a major problem, but unlike other countries external borrowing is fairly well-controlled,'' Byrne says. ''Long-term borrowing is fairly tight and the short-term debt is at a reasonable level. They have controlled it, and they have sent out signals that they will continue to control it.''

Robinson counters, ''I received the same assurances about the Soviet Union that Moscow's debt was entirely manageable. They said I was overreacting then. Well, what was the epilogue? Very simply, roughly $100 billion in Soviet debt to Western governments was lost in a 25-year rescheduling.''

What did the Soviet Union do with all that U.S. cash? They made their attack submarines quieter and enhanced their range so that now ''they can threaten every American city with no advance warning sign,'' Robinson says.

But there is a significant difference between Russia and China in these matters because, unlike bank loans, the bonds cannot be rescheduled. Instead, if it can't pay the debt, Beijing simply will default—forcing U.S. taxpayers to bail it out.

The whole Asian picture is cause for alarm in light of recent events with more than $100 billion in bailouts already expected. South Korea leads the pack with $50 billion; Indonesia is at $37 billion; Thailand, $17 billion; and Malaysia at $10 billion. The United States is responsible for bailing out 25 percent of it. Now throw Beijing into that picture and the result 10 years from now could be another $100 billion bailout.

And disclosure may be imperfect, Robinson admits. But he says a do-nothing approach could bankrupt the future of American children even as our money and credits, aid and trade, are used to finance building Red China into a military superpower. ''Taken alone, the widespread proliferation of weapons of mass destruction and ballistic-missile delivery systems constitutes a sufficient argument for the establishment of an Office of National Security at the SEC,'' Robinson says. ''After all, foreign governments are by far the largest category of proliferators—but you may be certain the American people will not want to discover in the future that their leaders bankrupted them to fund enemies in an epic global tragedy.''

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

The SPEAKER pro tempore. All time for debate has expired.

The resolution is considered read for amendment.

Pursuant to House Resolution 436, the previous question is ordered.

The question is on the resolution.

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

Mr. SOLOMON. 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 342, nays 69, answered ''present'' 12, not voting 10, as follows:

[Roll No. 177]

YEAS—342

Abercrombie
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman

Tiahrt	Watkins	White
Tierney	Watts (OK)	Whitfield
Traficant	Waxman	Wicker
Turner	Weldon (FL)	Wise
Upton	Weldon (PA)	Wolf
Walsh	Weller	Young (AK)
Wamp	Weygand	Young (FL)

NAYS—69

Ackerman	Hinchey	Owens
Andrews	Jackson (IL)	Pastor
Becerra	Jackson-Lee (TX)	Payne
Bonior	Jefferson	Pickett
Brady (PA)	Johnson, E. B.	Rangel
Brown (CA)	Kennedy (MA)	Rodriguez
Brown (FL)	Lee	Roybal-Allard
Brown (OH)	Levin	Rush
Carson	Lewis (GA)	Scott
Clay	Markey	Serrano
Clyburn	Martinez	Skaggs
Conyers	Matsui	Slaughter
Cummings	McDermott	Stark
DeGette	McKinney	Stokes
Delahunt	Meek (FL)	Thompson
Deutsch	Millender-McDonald	Towns
Dicks	Miller (CA)	Velazquez
Engel	Moran (VA)	Vento
Fattah	Murtha	Visclosky
Fazio	Nadler	Waters
Filner	Oberstar	Wexler
Furse	Olver	Wynn
Hastings (FL)		Yates
Hilliard		

ANSWERED ''PRESENT''—12

Berman	Frank (MA)	Sanchez
Bishop	Kind (WI)	Tauscher
Clayton	Maloney (NY)	Watt (NC)
DeFazio	McGovern	Woolsey

NOT VOTING—10

Bateman	Johnson, Sam	Pelosi
Franks (NJ)	McDade	Torres
Gonzalez	Meeks (NY)	
Harman	Parker	

□ 1447

Messrs. THOMPSON, CUMMINGS, MORAN of Virginia and OBERSTAR and Ms. MCKINNEY changed their vote from ''aye'' to ''no.''

Mrs. KENNELLY of Connecticut, Ms. MCCARTHY of Missouri, and Messrs. HINOJOSA, ROTHMAN, COSTELLO and MANTON changed their vote from ''no'' to ''aye.''

Mr. WATT of North Carolina and Mrs. CLAYTON changed their vote from ''no'' to ''present.''

Mrs. MALONEY of New York and Ms. WOOLSEY changed their vote from ''aye'' to ''present.''

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.

CERTIFICATION OF COOPERATION BY POLAND, HUNGARY, AND THE CZECH REPUBLIC WITH U.S. EFFORTS REGARDING OBTAINING ACCOUNTING OF CAPTURED AND MISSING U.S. PERSONNEL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. Doc. No. 105–256)

The SPEAKER pro tempore (Mr. LATOURETTE) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

In accordance with the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, adopted by the Senate of the United States on April 30, 1998, I hereby certify to the Congress that, in connection with Condition (5), each of the governments of Poland, Hungary, and the Czech Republic are fully cooperating with United States efforts to obtain the fullest possible accounting of captured and missing U.S. personnel from past military conflicts or Cold War incidents, to include (A) facilitating full access to relevant archival material, and (B) identifying individuals who may possess knowledge relative to captured and missing U.S. personnel, and encouraging such individuals to speak with United States Government officials.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 94

Mrs. CLAYTON. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor for H.R. 94, the Volunteer Firefighter and Rescue Squad Worker Protect Act.

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

There was no objection.

DEEMING THOMAS AMENDMENT NO. 41 TO HAVE BEEN INCLUDED AS LAST AMENDMENT IN PART D OF HOUSE REPORT 105–544 DURING FURTHER CONSIDERATION OF H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3616, pursuant to House Resolution 441, that the Thomas amendment presently at the desk be deemed to have been included as the last amendment printed in Part D of House Report 105–544.

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

The Clerk read as follows:

Part D Amendment No. 41 offered by Mr. THOMAS:

At the end of title XXXIV (page 373, after line 2), insert the following new section:

SEC. 3408. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.

Section 3415(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note) is amended by striking out the first sentence and inserting in lieu thereof the following: ''Amounts in the contingent fund shall be available for paying a claim described in subsection (a) in accordance with the terms of, and the payment schedule contained in, the Settlement Agreement entered into between the State of California and the Department of Energy, dated October 11, 1996, and supplemented on December 10, 1997. The Secretary shall modify the Settlement Agreement to negate the requirements of the Settlement Agreement with respect to the request for and appropriation of funds.''.

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

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The SPEAKER pro tempore. Pursuant to House Resolution 441 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3616.

□ 1452

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, May 20, 1998, amendment No. 3 printed in Part B of House report 105–544 had been disposed of.

PART D AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. SPENCE

Mr. SPENCE. Mr. Chairman, I offer amendments en bloc, as modified.

The CHAIRMAN. The Clerk will designate the amendments en bloc and report the modifications.

The text of the amendments en bloc is as follows:

Part D amendments en bloc offered by Mr. SPENCE:

Part D amendment No. 1 offered by Mr. BRYANTt:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN EMPLOYEES.

(a) LIMITATION ON STATE AUTHORITY TO TAX COMPENSATION PAID TO INDIVIDUALS PERFORMING SERVICES AT FORT CAMPBELL, KENTUCKY.—

(1) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky

''Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to pay and compensation paid after the date of the enactment of this Act.

(b) CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Section 111 of title 4, United States Code, is amended—

(A) by inserting ''(a) GENERAL RULE.—'' before ''The United States'' the first place it appears, and

(B) by adding at the end the following:

''(b) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE COLUMBIA RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

''(1) which is owned by the United States,

''(2) which is located on the Columbia River, and

''(3) portions of which are within the States of Oregon and Washington,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

''(c) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE MISSOURI RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

''(1) which is owned by the United States,

''(2) which is located on the Missouri River, and

''(3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to pay and compensation paid after the date of the enactment of this Act.

Part D amendment No. 2 offered by Mr. CUNNINGHAM:

Strike out section 2812 (page 299, beginning line 1), and insert the following new section:

SEC. 2812. OUTDOOR RECREATION DEVELOPMENT ON MILITARY INSTALLATIONS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.

(a) ACCESS ENHANCEMENT.—Section 103 of the Sikes Act (16 U.S.C. 670c) is amended by adding at the end the following new subsections:

''(b) ACCESS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.—(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the extent reasonably practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide access for persons described in paragraph (2) when topographic, vegetative, and water resources allow access for such persons without substantial modification to the natural environment.

''(2) Persons referred to in paragraph (1) are the following:

''(A) Disabled veterans.

''(B) Military dependents with disabilities.

''(C) Other persons with disabilities, when access to a military installation for such persons and other civilians is not otherwise restricted.

''(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

''(c) ACCEPTANCE OF DONATIONS.—In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) to provide access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept—

''(1) the voluntary services of individuals and organizations; and

''(2) donations of money or property, whether real, personal, mixed, tangible, or intangible.

''(d) TREATMENT OF VOLUNTEERS.—A volunteer under subsection (c) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

''(1) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, the volunteer shall be considered to be a Federal employee; and

''(2) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.''.

(b) CONFORMING AMENDMENT.—Such section is further amended by striking out ''SEC. 103.'' and inserting in lieu thereof the following:

''SEC. 103. PROGRAM FOR PUBLIC OUTDOOR RECREATION.

''(a) PROGRAM AUTHORIZED.—''.

Part D amendment No. 3 offered by Mr. UNDERWOOD:

At the end of section 653(e) (page 183, line 7), insert the following: ''The report shall be submitted not later than six months after the date of the enactment of this Act and shall include, in addition to the certification, a description of the system used to recover from commercial carriers the costs incurred by the Department under such amendments.''.

Part D amendment No. 4 offered by Mr. TRAFICANT:

At the end of title VIII (page 199, after line 25), insert the following new section:

SEC. 804. TIME FOR SUBMISSION OF ANNUAL REPORT RELATING TO BUY AMERICAN ACT.

Section 827 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2611; 41 U.S.C. 10b–3) is amended by striking out ''90 days'' and inserting in lieu thereof ''60 days''.

Part D amendment No. 5 offered by Mr. TRAFICANT:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. REQUIREMENT TO PROVIDE BURIAL FLAGS WHOLLY PRODUCED IN THE UNITED STATES.

(a) REQUIREMENT.—Section 2301 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) Any flag furnished pursuant to this section shall be wholly produced in the United States.

''(2) For the purpose of paragraph (1), the term 'wholly produced' means—

''(A) the materials and components of the flag are entirely grown, manufactured, or created in the United States;

''(B) the processing (including spinning, weaving, dyeing, and finishing) of such materials and components is entirely performed in the United States; and

''(C) the manufacture and assembling of such materials and components into the flag is entirely performed in the United States.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to flags furnished by the Secretary of Veterans Affairs under section 2301 of title 38, United States Code, after September 30, 1998.

Part D amendment No. 6 offered by Mr. TRAFICANT:

At the end of part II of subtitle D of title XXVIII (page 320, after line 11), insert the following new section:

SEC. 2843. LAND CONVEYANCE, NAVAL AND MARINE CORPS RESERVE FACILITY, YOUNGSTOWN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 315 East Laclede Avenue in Youngstown, Ohio, and is the location of a Naval and Marine Corps Reserve facility.

(b) PURPOSE.—The purpose of the conveyance under subsection (a) is to permit the City to use the parcel for educational purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Part D amendment No. 7 offered by Mr. BARTLETT of Maryland and Mr. SOLOMON:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. . INVESTIGATION OF ACTIONS RELATING TO 174TH FIGHTER WING OF NEW YORK AIR NATIONAL GUARD.

(a) INVESTIGATION.—The Inspector General of the Department of Defense shall investigate the grounding of the 174th Fighter Wing of the New York Air National Guard and the subsequent dismissal, demotion, or reassignment of 12 decorated combat pilots of that wing.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report describing the results of the investigation under subsection (a).

Part D amendment No. 8 offered by Mr. FRANK of Massachusetts and Mr. SISISKY:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. LIMITATION ON PAYMENTS FOR COST OF NATO EXPANSION.

(a) The amount spent by the United States as its share of the total cost to North Atlantic Treaty Organization member nations of the admission of new member nations to the North American Treaty Organization may not exceed 10 percent of the cost of expansion or a total of $2,000,000,000, whichever is less, for fiscal years 1999 through 2011.

(b) If at any time during the period specified in subsection (a), the United States'

share of the total cost of expanding the North Atlantic Treaty Organization exceeds 10 percent, no further United States funds may be expended for the costs of such expansion until that percentage is reduced to below 10 percent.

Part D amendment No. 9 offered by Mr. HOBSON:

At the end of title VII (page 197, after line 5) insert the following new sections:

SEC. 726. REQUIREMENT THAT MILITARY PHYSICIANS POSSESS UNRESTRICTED LICENSES.

(a) IN GENERAL.—Section 1094(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3) In the case of a physician under the jurisdiction of the Secretary of a military department, such physician may not provide health care as a physician under this chapter unless the current license of the physician is an unrestricted license which is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 727. ESTABLISHMENT OF MECHANISM FOR ENSURING COMPLETION BY MILITARY PHYSICIANS OF CONTINUING MEDICAL EDUCATION REQUIREMENTS.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1094 the following new section:

''§ 1094a. Mechanism for monitoring of completion of Continuing Medical Education requirements

''The Secretary of Defense shall establish a mechanism for the purpose of ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician completes the Continuing Medical Education requirements applicable to the physician.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1094a. Mechanism for monitoring of completion of Continuing Medical Education requirements.''.

(b) EFFECTIVE DATE.—Section 1094a of title 10, United States Code, as added by subsection (a), shall take effect on the date that is three years after the date of the enactment of this Act.

Part D amendment No. 10 offered by Mrs. MALONEY of New York:

At the end of subtitle D of title VI (page 178, after line 20), insert the following new section:

SEC. 642. REVISION TO COMPUTATION OF RETIRED PAY FOR ENLISTED MEMBERS WHO ARE REDUCED IN GRADE BEFORE RETIREMENT.

(a) PRE-SEPTEMBER 8, 1980 MEMBERS.—Section 1406(i) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) EXCEPTION FOR MEMBERS REDUCED IN GRADE.—Paragraph (1) does not apply in the case of a member who after serving as the senior enlisted member of an armed force is reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or other administrative process, as determined by the Secretary concerned.''.

(b) POST-SEPTEMBER 7, 1980 MEMBERS.—Section 1407 of such title is amended by adding at the end the following new subsection:

''(f) LIMITATION FOR ENLISTED MEMBERS REDUCED IN GRADE.—

''(1) BASIC PAY DISREGARDED FOR GRADES ABOVE GRADE TO WHICH REDUCTION IN GRADE IS MADE.—In computing the high-three average of a retired enlisted member who has been reduced in grade, the amount of basic pay to which the member was entitled for any covered pre-reduction month (or to which the member would have been entitled if serving on active duty during that month, in the case of a member entitled to retired under pay under section 12731 of this title) shall (for the purposes of such computation) be deemed to be the rate of basic pay to which the member would have been entitled for that month if the member had served on active duty during that month in the grade to which the reduction in grade was made.

''(2) DEFINITIONS.—In this subsection:

''(A) RETIRED ENLISTED MEMBER WHO HAS BEEN REDUCED IN GRADE.—The term 'retired enlisted member who has been reduced in grade' means a member or former member who—

''(i) retires in an enlisted grade, transfers to the Fleet Reserve or Fleet Marine Corps Reserve, or becomes entitled to retired pay under chapter 12731 after last serving in an enlisted grade; and

''(ii) had at any time previously been reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or other administrative process, as determined by the Secretary concerned.

''(B) COVERED PRE-REDUCTION MONTH DEFINED.—The term 'covered pre-reduction month' means, in the case of a retired enlisted member who has been reduced in grade, a month of service of the member before the reduction in grade of the member during which the member served in a grade higher than the grade to which the reduction in grade was made.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a member who is reduced in grade by sentence of a court-martial only in the case of a court-martial conviction on or after the date of the enactment of this Act. Subsection (f) of section 1407 of title 10, United States Code, as added by the amendment made by subsection (b), shall not apply to the retired or retainer pay of any person who becomes entitled to that pay before the date of the enactment of this Act.

(d) TECHNICAL AMENDMENT.—Subsection (e) of section 1407 of title 10, United States Code, is amended by striking out ''high-36 average shall be computed'' and inserting in lieu thereof ''high-three average shall be computed under subsection (c)(1)''.

Part D amendment No. 11 offered by Mr. MARKEY:

At the end of title XXXI (page 363, after line 5), insert the following new section:

SEC. 3154. PROHIBITION ON USE OF TRITIUM PRODUCED IN FACILITIES LICENSED UNDER THE ATOMIC ENERGY ACT FOR NUCLEAR EXPLOSIVE PURPOSES.

(A) PROHIBITION.—Section 57(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(e)) is amended by inserting after ''section 11,'' the following: ''or tritium''.

(b) CONFORMING AMENDMENT.—Section 108 of such Act (42 U.S.C. 2138) is amended by inserting ''or tritium'' after ''special nuclear material'' in the second and third sentences each place it appears.

Part D amendment No. 12 offered by Mr. STENHOLM and Mr. THUNE:

At the end of title VII of the bill (page 197, after line 5), insert the following new section:

SECTION 726. PROPOSAL ON ESTABLISHMENT OF APPEALS PROCESS FOR CLAIMCHECK DENIALS AND REVIEW OF CLAIMCHECK SYSTEM.

Not later than November 1, 1998, the Secretary of Defense shall submit to Congress a proposal to establish an appeals process in cases of denials through the ClaimCheck computer software system of claims by civilian providers for payment for health care services provided under the TRICARE program.

Part D amendment No. 14 offered by Mr. MCKEON:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. 1044. FACILITATION OF OPERATIONS AT EDWARDS AIR FORCE BASE, CALIFORNIA.

(a) FACILITATION OF OPERATIONS.—The Secretary of the Air Force may, in order to facilitate implementation of the Edwards Air Force Base Alliance Agreement, authorize equipment, facilities, personnel, and other resources available to the Air Force at Edwards Air Force Base to be used in such manner as the Secretary considers appropriate for the efficient operation and support of either or both of the organizations that are parties to that agreement without regard to the provisions of section 1535 of title 31, United States Code (and any regulations of the Department of Defense prescribed under that section).

(b) PRESERVATION OF FINANCIAL INTEGRITY OF FUNDS.—The Secretary shall carry out subsection (a) so as to preserve the financial integrity of funds appropriated to the Department of the Air Force and the National Aeronautics and Space Administration.

(c) EDWARDS AIR FORCE BASE ALLIANCE AGREEMENT.—For purposes of this section, the term ''Edwards Air Force Base Alliance Agreement'' means the agreement entered into in May 1995, between the commander of the Air Force Flight Test Center and the director of the Dryden Flight Research Center of the National Aeronautics and Space Administration, both of which are located at Edwards Air Force Base, California, to develop and sustain a working relationship between the two organizations to improve the efficiency of the operations of both organizations while preserving the unique missions of both organizations.

(d) DELEGATION.—The authority of the Secretary under this section may be delegated, at the Secretary's discretion, to the commander of the Air Force Flight Test Center, Edwards Air Force Base, California.

(e) REPORT.—Not later than May 1, 1999, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall submit to Congress a joint report on the implementation of this section.

Part D amendment No. 15 offered by Mr. HUNTER:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. COMMODITY JURISDICTION FOR SATELLITE EXPORTS.

(a) CONTROL ON MUNITIONS LIST.—All satellites of United States origin, including commercial satellites and satellite components, shall be placed on the United States Munitions List, and the export of such satellites shall be controlled under the Arms Export Control Act, effective 60 days after the date of the enactment of this Act.

(b) REGULATIONS.—Regulations to carry out subsection (a) shall be issued within 60 days after the date of the enactment of this Act.

Part D amendment No. 16 offered by Mr. SPENCE:

At the end of subtitle D of title X (page 228, after line 13), insert the following new section:

SEC. . TRANSMISSION OF EXECUTIVE BRANCH REPORTS PROVIDING CONGRESS WITH CLASSIFIED SUMMARIES OF ARMS CONTROL DEVELOPMENTS.

(a) REPORTING REQUIREMENT.—The Director of the Arms Control and Disarmament Agency (or the Secretary of State, if the Arms Control and Disarmament Agency becomes an element of the Department of State) shall transmit to Congress on a periodic basis reports containing classified summaries of arms control developments.

(b) CONTENTS OF REPORTS.—The reports required by subsection (a) shall include information reflecting the activities of forums established to consider issues relating to treaty implementation and treaty compliance, including the Joint Compliance and Inspection Commission, the Joint Verification Commission, the Open Skies Consultative Commission, the Standing Consultative Commission, and the Joint Consultative Group.

Part D amendment No. 17 offered by Mr. SESSIONS:

At the end of subtitle D of title III (page 67, after line 3), insert the following new section:

SEC. 340. BEST COMMERCIAL INVENTORY PRACTICES FOR MANAGEMENT OF SECONDARY SUPPLY ITEMS.

(a) DEVELOPMENT AND SUBMISSION OF SCHEDULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of each military department shall develop and submit to Congress a schedule for implementing within the military department, for secondary supply items managed by that military department, inventory practices identified by the Secretary as being the best commercial inventory practices for the acquisition and distribution of such supply items consistent with military requirements. The schedule shall provide for the implementation of such practices to be completed not later than five years after the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term ''best commercial inventory practice'' includes cellular repair processes, use of third-party logistics providers, and any other practice that the Secretary of the military department determines will enable the military department to reduce inventory levels and holding costs while improving the responsiveness of the supply system to user needs.

(c) GAO REPORTS ON MILITARY DEPARTMENT AND DEFENSE LOGISTICS AGENCY SCHEDULES.—(1) Not later than 240 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the extent to which the Secretary of each military department has complied with the requirements of this section.

(2) Not later than 18 months after the date on which the Director of the Defense Logistics Agency submits to Congress a schedule for implementing best commercial inventory practices under section 395 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1718; 10 U.S.C. 2458 note), the Comptroller General shall submit to Congress an evaluation of the extent to which best commercial inventory practices are being implemented in the Defense Logistics Agency in accordance with that schedule.

Part D amendment No. 18 offered by Mr. GIBBONS:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. RELEASE OF EXPORT INFORMATION HELD BY THE DEPARTMENT OF COMMERCE FOR PURPOSE OF NATIONAL SECURITY ASSESSMENTS.

(a) RELEASE OF EXPORT INFORMATION.—The Secretary of Commerce shall transmit any information relating to exports that is held by the Department of Commerce and is requested by the officials designated in subsection (b) for the purpose of assessing national security risks. The Secretary of Commerce shall transmit such information within 5 days after receiving a written request for such information. Information referred to in this section includes—

(1) export licenses, and information on exports that were carried out under an export license issued by the Department of Commerce; and

(2) information collected by the Department of Commerce on exports from the United States that were carried out without an export license.

(b) REQUESTING OFFICIALS.—The officials referred to in subsection (a) are the Director of Central Intelligence, the Secretary of Defense, and the Secretary of Energy. The Director of Central Intelligence, the Secretary of Defense, and the Secretary of Energy may delegate to other officials within their respective agency and departments the authority to request information under subsection (b).

Part D amendment No. 21 offered by Mr. HUNTER and Mr. JONES:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. . SENSE OF CONGRESS CONCERNING TAX TREATMENT OF PRINCIPAL RESIDENCE OF MEMBERS OF ARMED FORCES WHILE AWAY FROM HOME ON ACTIVE DUTY.

It is the sense of Congress that a member of the Armed Forces should be treated as using property as a principal residence during any period that the member (or the member's spouse) is serving on extended active duty with the Armed Forces, but only if the member used the property as a principal residence for any period during or before the period of extended active duty.

Part D amendment No. 23 offered by Mr. WELDON of Florida:

At the end of title X (page 234, after line 4), insert the following new section:

SEC.—. OPERATION, MAINTENANCE, AND UPGRADE OF AIR FORCE SPACE LAUNCH FACILITIES.

Funds appropriated pursuant to the authorizations of appropriations in this Act for the operation, maintenance, or upgrade of the Western Space Launch Facilities of the Department of the Air Force (Program Element 35181F) and the Eastern Space Launch Facilities of the Department of the Air Force (Program Element 351821F) may not be obligated for any other purpose.

Part D amendment No. 24 offered by Mr. BARR of Georgia:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COUNTER-DRUG CENTER IN PANAMA.

In anticipation of the closure of all United States military installations in Panama by December 31, 1999, it is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should continue negotiations with the Government of Panama for the establishment in Panama of a counter-drug center to be used by the Armed Forces of the United States in cooperation with Panamanian forces and military personnel of other friendly nations.

Part D amendment No. 25 offered by Mr. HASTINGS of Washington:

At the end of subtitle C of title XXXI (page 356, after line 14), insert the following new section:

SEC. 3136. HANFORD TANK CLEANUP PROGRAM REFORMS.

(a) ESTABLISHMENT OF OFFICE OF RIVER PROTECTION.—The Secretary of Energy shall establish an office at the Hanford Reservation, Richland, Washington, to be known as the ''Office of River Protection''.

(b) MANAGEMENT.—The Office shall be headed by a senior official of the Department of Energy, who shall be responsible for managing all aspects of the Tank Waste Remediation System (also referred to as the Hanford Tank Farm operations), including those portions under privatization contracts, of the Department of Energy at the Hanford Reservation. The Office shall be responsible for developing the integrated management plan under subsection (d).

(c) DEPARTMENT OF ENERGY RESPONSIBILITIES.—The Secretary of Energy shall—

(1) provide the manager of the Office of River Protection with the resources and personnel necessary to manage the tank waste privatization program in an efficient and streamlined manner; and

(2) establish a five-member advisory committee, including the manager of the Richland operations office and a representative of the Office of Privatization and Contract Reform, to advise the Office.

(d) INTEGRATED MANAGEMENT PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an integrated management plan for all aspects of the Hanford Tank Farm operations, including the roles, responsibilities, and reporting relationships of the Office of River Protection. In developing the plan, the Secretary shall consider the extent to which the Office should be physically and administratively separate from the Richland operations office.

(e) REPORT.—After the Office of River Protection has been in operation for two years, the Secretary of Energy shall submit to Congress a report on the success of the Tank Waste Remediation System and the Office in improving the management structure of the Department of Energy.

(f) TERMINATION.—The Office of River Protection shall terminate after it has been in operation for five years, unless the Secretary of Energy determines that such termination would disrupt effective management of Hanford Tank Farm operations. The Secretary shall inform the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of this determination in writing.

Part D amendment No. 26 offered by Mr. HASTINGS of Washington:

At the end of title XXXI (page 363, after line 5), insert the following new section:

SEC. 3154. HAZARDOUS MATERIALS MANAGEMENT AND EMERGENCY RESPONSE TRAINING PROGRAM.

The Secretary of Energy may enter into partnership arrangements with Federal and non-Federal entities to share the costs of operating the hazardous materials management and hazardous materials emergency response training program authorized under section 3140(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3088). Such arrangements may include the exchange of equipment and services, in lieu of payment for the training program.

Part D amendment No. 27 offered by Mrs. FOWLER:

At the end of title IX (page 217, before line 20), insert the following new section:

SEC. 910. ANNUAL REPORT ON INDIVIDUALS EMPLOYED IN PRIVATE SECTOR WHO PROVIDE SERVICES UNDER CONTRACT FOR THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2222. Information system to track quantity and value of non-Federal services

''(a) IMPLEMENTATION OF SYSTEM.—The Secretary of Defense shall implement an information system for the collection and reporting of information by the Secretaries of the military departments, Directors of the Defense Agencies, and heads of other DOD organizations concerning the quantity and value of non-Federal services they acquired. The system shall be designed to provide information, for the Department of Defense as a whole and for each DOD organization, concerning the following:

''(1) The number of workyears performed by individuals employed by non-Federal entities providing goods and services under contracts of the Department of Defense.

''(2) The labor costs to the Department of Defense under the contracts associated with the performance of those workyears.

''(3) The value of the goods and services procured by the Department of Defense from non-Federal entities.

''(4) The appropriations associated with the contracts for those goods and services.

''(5) The Federal supply class or service code associated with those contracts.

''(6) The major organization element contracting for the goods and services.

''(b) ANNUAL REPORTS TO SECRETARY OF DEFENSE.—Not later than February 1 of each year, the head of each DOD organization shall submit to the Secretary of Defense a report detailing the quantity and value of non-Federal services obtained by that organization. The report shall be developed from the system under subsection (a) and shall contain the following:

''(1) The total amount paid during the preceding fiscal year to obtain goods and services provided under contracts, expressed in dollars and as a percentage of the total budget of that organization, and shown by appropriation account or revolving fund, by Federal supply class or service code, and by any major organizational element under the authority of the head of that organization.

''(2) The total number of workyears performed during the preceding fiscal year by employees of non-Federal entities providing goods and services under contract, shown by appropriation account or revolving fund, by Federal supply class or service code, and by any major organizational element under the authority of the head of that organization.

''(3) A detailed discussion of the methodology used under the system to derive the data provided in the report.

''(c) ANNUAL REPORT TO CONGRESS.—Not later than February 15 of each year, the Secretary of Defense shall submit to Congress a report containing all of the information concerning the quantity and value of non-Federal services obtained by the Department of Defense as shown in the reports submitted to the Secretary for that year under subsection (b). The Secretary shall include in that report the information provided by each DOD organization under subsection (b) without revision from the manner in which it is submitted to the Secretary by the head of that organization.

''(d) DEVELOPMENT OF INFORMATION.—(1) The Secretary of Defense may prescribe regulations to require contractors providing goods and services to the Department of Defense to include on invoices submitted to the Secretary or head of a DOD organization responsible for such contracts the number of hours of labor attributable to the contract for which the invoice is submitted.

''(2) The Secretary shall require that each DOD organization provide information for the information system under subsection (a) and the annual report under subsection (b) in as uniform manner as practicable.

''(e) ASSESSMENT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the report of the Secretary of Defense under subsection (c) each year and shall—

''(A) assess the appropriateness of the methodology used by the Secretary and the DOD organizations in deriving the information provided to Congress in the report; and

''(B) assess the accuracy of the information provided to Congress in the report.

''(2) Not later than 90 days after the date on which the Secretary submits to Congress the report required under subsection (e) for any year, the Comptroller General shall submit to Congress the Comptroller General's report containing the results of the review for that year under paragraph (1).

''(e) DEFINITIONS.—In this section:

''(1) The term 'DOD organization' means—

''(A) the Office of the Secretary of Defense;

''(B) each military department;

''(C) the Joint Chiefs of Staff and the unified and specified commands;

''(D) each Defense Agency; and

''(E) each Department of Defense Field Activity.

''(2) The term 'workyear' means the private sector equivalent to the total number of hours of labor that an individual employed on a full-time equivalent basis by the Federal Government performs in a given year.

''(3) The term 'contract' has the meaning given such term in parts 34, 35, 36, and 37 of title 48, Code of Federal Regulations.

''(4) The term 'labor costs' means all compensation costs for personal services as defined in part 31 of title 48, Code of Federal Regulations.

''(5) The term 'major organizational element' means an organization within a Defense Agency or military department that is headed by a Senior Executive Service official (or military equivalent) and that contains a contract administration office (as defined in part 2 of title 48, Code of Federal Regulations).

''(6) The term 'Federal supply class or service code' is the functional code prescribed by section 253.204–70 of the Department of Defense Federal Acquisition Regulation Supplement, as determined by the first character of such code.

''(f) CONSTRUCTION OF SECTION.—The Secretary of Defense shall ensure that the provisions of this section are construed broadly so as enable accurate and full accounting for the volume and costs associated with contractor support of the Department of Defense.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2222. Information system to track quantity and value of non-Federal services.''.

(b) EFFECTIVE DATE.—The system required by subsection (a) of section 2222 of title 10, United States Code, as added by subsection (a), shall be implemented not later than one year after the date of the enactment of this Act.

Part D amendment No. 28 offered Mr. BISHOP:

At the end of subtitle B of title VI (page 176, after line 2), insert the following new section:

SEC. __. HARDSHIP DUTY PAY.

(a) DUTY FOR WHICH PAY AUTHORIZED.—Subsection (a) of section 305 of title 37, United States Code, is amended by striking out ''on duty at a location'' and all that follows and inserting in lieu thereof ''performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.''.

(b) REPEAL OF EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—Subsection (c) of such section is repealed.

(c) CONFORMING AMENDMENTS.—(1) Subsections (b) and (d) of such section are amended by striking out ''hardship duty location pay'' and inserting in lieu thereof ''hardship duty pay''.

(2) Subsection (d) of such section is redesignated as subsection (c).

(3) The heading for such section is amended by striking out **"location"**.

(4) Section 907(d) of title 37, United States Code, is amended by striking out ''duty at a hardship duty location'' and inserting in lieu thereof ''hardship duty''.

(d) CLERICAL AMENDMENT.—The item relating to section 305 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

''305. Special pay: hardship duty pay.''.

Part D amendment No. 29 offered by Mr. BILBRAY:

At the end of title X (page 234, after line 4), insert the following new section:

SEC. __. SENSE OF CONGRESS CONCERNING NEW PARENT SUPPORT PROGRAM AND MILITARY FAMILIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the New Parent Support Program that was begun as a pilot program of the Marine Corps at Camp Pendleton, California, has been an effective tool in curbing family violence within the military community;

(2) such program is a model for future programs throughout the Marine Corps, the Navy, and the Army; and

(3) in light of the pressures and strains placed upon military families and the benefits of the New Parent Support Program in helping these high ''at-risk'' families, the Department of Defense should seek ways to ensure that in future fiscal years funds are made available for those programs for each of the Armed Forces in amounts sufficient to meet requirements for those programs.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the New Parent Support Program of the Department of Defense. The Secretary shall include in the report the following:

(1) A description of how the Army, Navy, Air Force, and Marine Corps are each implementing a New Parent Support Program and how each such program is organized.

(2) A description of how the implementation of programs for the Army, Navy, and Air Force compare to the fully implemented Marine Corps program.

(3) The number of installations that each service has scheduled to receive support for the New Parent Support Program.

(4) The number of installations delayed in providing the program.

(5) The number of programs terminated.

(6) The number of programs with reduced support.

(7) The funding provided for those programs for each of the four services for each of fiscal years 1994 through 1998 and the amount projected to be provided for those programs for fiscal year 1999 and, if the amount provided for any of those programs for any such year is less that the amount

needed to fully fund for that program for that year, an explanation of the reasons for the shortfall.

Part D amendment No. 30 offered by Mr. WELDON of Pennsylvania:

At the end of subtitle B of title II (page 24, after line 25), insert the following new section:

SEC. 214. NEXT GENERATION INTERNET PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated under section 201(4), $53,000,000 shall be available for the Next Generation Internet program.

(b) LIMITATION.—Notwithstanding the enactment of any other provision of law after the date of the enactment of this Act, amounts may be appropriated for fiscal year 1999 for research, development, test, and evaluation by the Department of Defense for the Next Generation Internet program only pursuant to the authorization of appropriations under section 201(4).

Part D amendment No. 31 offered by Mr. WELDON of Pennsylvania and Mr. SKELTON:

At the end of Division A of the bill (page 265, after line 8) insert the following new title:

TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Defense Against Weapons of Mass Destruction Act of 1998''.

SEC. 1402. FINDINGS.

The Congress finds the following:

(1) Many nations currently possess weapons of mass destruction and related materials and technologies, and such weapons are increasingly available to a variety of sources through legitimate and illegitimate means.

(2) The proliferation of weapons of mass destruction is growing, and will likely continue despite the best efforts of the international community to limit their flow.

(3) The increased availability, relative affordability, and ease of use of weapons of mass destruction may make the use of such weapons an increasingly attractive option to potential adversaries who are not otherwise capable of countering United States military superiority.

(4) On November 12, 1997, President Clinton issued an Executive Order stating that ''the proliferation of nuclear, biological, and chemical weapons (''weapons of mass destruction'') and the means of delivering such weapons constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States'' and declaring a national emergency to deal with that threat.

(5) The Quadrennial Defense Review concluded that the threat or use of weapons of mass destruction is a likely condition of future warfare and poses a potential threat to the United States.

(6) The United States lacks adequate preparedness at the Federal, State, and local levels to respond to a potential attack on the United States involving weapons of mass destruction.

(7) The United States has initiated an effort to enhance the capability of Federal, State, and local governments as well as local emergency response personnel to prevent and respond to a domestic terrorist incident involving weapons of mass destruction.

(8) More than 40 Federal departments, agencies, and bureaus are involved in combating terrorism, and many, including the Department of Defense, the Department of Justice, the Department of Energy, the Department of Health and Human Services, and the Federal Emergency Management Agency, are executing programs to provide civilian personnel at the Federal, State, and local levels with training and assistance to prevent and respond to incidents involving weapons of mass destruction.

(9) The Department of Energy has established a Nuclear Emergency Response Team which is available to respond to incidents involving nuclear or radiological emergencies.

(10) The Department of Defense has begun to implement a program to train local emergency responders in major cities throughout the United States to prevent and respond to incidents involving weapons of mass destruction.

(11) The Department of Justice has established a National Center for Domestic Preparedness at Fort McClellan, Alabama, to conduct nuclear, biological, and chemical preparedness training for Federal, State, and local officials to enhance emergency response to incidents involving weapons of mass destruction.

(12) Despite these activities, Federal agency initiatives to enhance domestic preparedness to respond to an incident involving weapons of mass destruction are hampered by incomplete interagency coordination and overlapping jurisdiction of agency missions, for example:

(A) The Secretary of Defense has proposed the establishment of 10 Rapid Assessment and Initial Detection elements, composed of 22 National Guard personnel, to provide timely regional assistance to local emergency responders during an incident involving chemical or biological weapons of mass destruction. However, the precise working relationship between these National Guard elements, the Federal Emergency Management Agency regional offices, and State and local emergency response agencies has not yet been determined.

(B) The Federal Emergency Management Agency, the lead Federal agency for consequence management in response to a terrorist incident involving weapons of mass destruction, has withdrawn from the role of chair of the Senior Interagency Coordination Group for domestic emergency preparedness, and a successor agency to chair the Senior Interagency Coordinator has not yet been determined.

(C) In order to ensure effective local response capabilities to incidents involving weapons of mass destruction, the Federal Government, in addition to providing training, must concurrently address the need for—

(i) compatible communications capabilities for all Federal, State, and local emergency responders, which often use different radio systems and operate on different radio frequencies;

(ii) adequate equipment necessary for response to an incident involving weapons of mass destruction, and a means to ensure that financially lacking localities have access to such equipment;

(iii) local and regional planning efforts to ensure the effective execution of emergency response in the event of an incident involving a weapon of mass destruction; and

(iii) increased planning and training to prepare for emergency response capabilities in port areas and littoral waters.

(D) The Congress is aware that Presidential Decision Directives relating to domestic emergency preparedness for response to terrorist incidents involving weapons of mass destruction are being considered, but agreement has not been reached within the executive branch.

Subtitle A—Domestic Preparedness

SEC. 1411. DOMESTIC PREPAREDNESS FOR RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the continuing potential for terrorist use of weapons of mass destruction against the United States and the need to develop a more fully coordinated response to that threat on the part of Federal, State, and local agencies, the President shall act to increase the effectiveness at the Federal, State, and local level of the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction by developing an integrated program that builds upon the program established under title XIV of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2714).

(b) REPORT.—Not later than January 31, 1999, the President shall submit to Congress a report containing information on the actions taken at the Federal, State, and local level to develop an integrated program to prevent and respond to terrorist incidents involving weapons of mass destruction.

SEC. 1412. REPORT ON DOMESTIC EMERGENCY PREPAREDNESS.

Section 1051 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1889) is amended by adding at the end the following new subsection:

''(c) ANNEX ON DOMESTIC EMERGENCY PREPAREDNESS PROGRAM.—As part of the report submitted to Congress under subsection (b), the President shall include an annex which provides the following information on the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction (as established under title XIV and section 1411 of the National Defense Authorization Act for Fiscal Year 1999):

''(1) information on program responsibilities for each participating Federal department, agency, and bureau;

''(2) a summary of program activities performed during the preceding fiscal year for each participating Federal department, agency, and bureau;

''(3) a summary of program obligations and expenditures during the preceding fiscal year for each participating Federal department, agency, and bureau;

''(4) a summary of the program plan and budget for the current fiscal year for each participating Federal department, agency, and bureau;

''(5) the program budget request for the following fiscal year for each participating Federal department, agency, and bureau;

''(6) recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction that have been made by the Advisory Commission on Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (as established under section 1421 of the National Defense Authorization Act for Fiscal Year 1999), and actions taken as a result of such recommendations; and

''(7) requirements regarding additional program measures and legislative authority for which congressional action may be recommended.''.

SEC. 1413. PERFORMANCE OF THREAT AND RISK ASSESSMENTS.

(a) THREAT AND RISK ASSESSMENTS.—(1) Assistance to Federal, State, and local agencies provided under the program under section 1411 shall include the performance of assessments of the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. Such assessments shall be used by Federal, State,

and local agencies to determine the training and equipment requirements under this program and shall be performed as a collaborative effort with State and local agencies.

(2) The Department of Justice, as lead Federal agency for crisis management in response to terrorism involving weapons of mass destruction, shall, through the Federal Bureau of Investigation, conduct any threat and risk assessment performed under paragraph (1) in coordination with appropriate Federal, State, and local agencies, and shall develop procedures and guidance for conduct of the threat and risk assessment in consultation with officials from the intelligence community.

(3) The President shall identify and make available the funds necessary to carry out this section.

(b) PILOT TEST.—(1) Before prescribing final procedures and guidance for the performance of threat and risk assessments under this section, the Attorney General, through the Federal Bureau of Investigation may, in coordination with appropriate Federal, State, and local agencies, conduct a pilot test of any proposed method or model by which such assessments are to be performed.

(2) The pilot test shall be performed in cities or local areas selected by the Department of Justice, through the Federal Bureau of Investigation, in consultation with appropriate Federal, State, and local agencies.

(3) The pilot test shall be completed not later than 4 months after the date of the enactment of this Act.

Subtitle B—Advisory Commission to Assess Domestic Response Capabilities For Terrorism Involving Weapons of Mass Destruction

SEC. 1421. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Advisory Commission on Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction'' (hereinafter referred to as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed of 15 members, appointed as follows:

(1) 4 members appointed by the Speaker of the House of Representatives;

(2) 4 members appointed by the majority leader of the Senate;

(3) 2 members appointed by the minority leader of the House of Representatives;

(4) 2 members appointed by the minority leader of the Senate;

(5) 3 members appointed by the President.

(c) QUALIFICATIONS.—Members shall be appointed from among individuals with knowledge and expertise in emergency response matters.

(d) DEADLINE FOR APPOINTMENTS.—Appointments shall be made not later than the date that is 30 days after the date of the enactment of this Act.

(e) INITIAL MEETING.—The Commission shall conduct its first meeting not later than the date that is 30 days after the date that appointments to the Commission have been made.

(f) CHAIRMAN.—A Chairman of the Commission shall be elected by a majority of the members.

SEC. 1422. DUTIES OF COMMISSION.

The Commission shall—

(1) assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

(2) assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;

(3) assess deficiencies in training programs for responses to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning and maritime region needs;

(4) recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and

(5) assess the appropriate role of State and local governments in funding effective local response capabilities.

SEC. 1423. REPORT.

Not later than the date that is 6 months after the date of the first meeting of the Commission, the Commission shall submit a report to the President and to Congress on its findings under section 1422 and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

SEC. 1424. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out this Act, hold such hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel member considers advisable.

(b) INFORMATION.—The Commission may secure directly from any department or agency of the United States information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this Act.

SEC. 1425. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of a majority of the members.

(b) QUORUM.—Eight members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

SEC. 1426. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties.

(2) The Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 1427. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the United States.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties under this title.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 1428. TERMINATION OF COMMISSION.

The Commission shall terminate not later than 60 days after the date that the Commission submits its report under section 1423.

SEC. 1429. FUNDING.

Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for fiscal year 1999.

Part D amendment No. 32 offered by Mr. WELDON of Pennsylvania:

At the end of title XXXI (page 363, after line 5), insert the following new section:

SEC. 3154. ADVANCED TECHNOLOGY RESEARCH PROJECT.

(a) FINDINGS.—Congress finds the following:

(1) Currently in the post-cold war world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective, advanced, and innovative nuclear management technologies.

(2) There is increasing public interest in monitoring and remediation of nuclear waste.

(3) It is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear wastes technologies.

(4) The Advanced Technology Research Project facilitates an international clearinghouse and marketplace for advanced nuclear technologies.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing the following:

(1) An assessment of whether the United States should encourage the establishment of an international project to facilitate the international exchange of information (including costs data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments.

(2) An assessment of whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international nongovernmental organization, with operations in the United States, Russia, and other countries that have an interest in developing such technologies.

(3) Recommendations for any legislation that the Secretary of Energy believes would be required to enable such a project to be undertaken.

Part D amendment No. 33 offered by Mr. WELDON of Pennsylvania and Mr. SPRATT:

At the end of subtitle C of title II (page 29, after line 21), insert the following new section:

SEC. 236. RESTRUCTURING OF THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM ACQUISITION STRATEGY.

(a) ESTABLISHMENT OF ALTERNATIVE CONTRACTOR.—(1) The Secretary of Defense shall select an alternative contractor as a potential source for the development and production of the interceptor missile for the Theater High-Altitude Area Defense (THAAD) system within a ''leader-follower'' acquisition strategy.

(2) The Secretary shall take such steps as necessary to ensure that the prime contractor for that system prepares the selected alternative contractor so as to enable the alternative contractor to be able (if necessary) to assume the responsibilities for development or production of an interceptor missile for that system.

(3) The Secretary shall select the alternative contractor as expeditiously as possible and shall use the authority provided in section 2304(c)(2) of title 10, United States Code, to expedite that selection.

(4) Of the amount authorized under section 201(4) for the Theater High-Altitude Area Defense system, the amount provided for the Demonstration/Validation phase for that system is hereby increased by $142,700,000, of which $30,000,000 shall be available for the purposes of this subsection, and the amount provided for the Engineering and Manufacturing Development phase for that system is hereby reduced by $142,700,000.

(b) COST SHARING ARRANGEMENT.—The Secretary of Defense shall contractually establish an appropriate cost sharing arrangement with the prime contractor as of May 14, 1998, for the interceptor missile for the Theater High-Altitude Area Defense system for flight test failures of that missile beginning with flight test nine.

(c) ENGINEERING AND MANUFACTURING DEVELOPMENT PHASE FOR OTHER ELEMENTS OF THE THAAD SYSTEM.—The Secretary of Defense shall proceed as expeditiously as possible with the milestone approval process for the Engineering and Manufacturing Development phase for the Battle Management and Command, Control, and Communications (BM/C^3) element of the Theater High-Altitude Area Defense system and for the Ground-Based Radar (GBR) element for that system. That milestone approval process for those elements shall proceed without regard to the stage of development of the missile interceptor for that system.

(d) REQUIREMENT BEFORE PROCUREMENT OF UOES MISSILES.—The Secretary of Defense may not obligate any funds for acquisition of User Operational Evaluation System (UOES) missiles for the Theater High-Altitude Area Defense system until there have been two successful tests of the interceptor missile for that system.

(e) LIMITATION ON ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT PHASE.—The Secretary of Defense may not approve the commencement of the Engineering and Manufacturing Development phase for the interceptor missile for the Theater High-Altitude Area Defense system until there have been three successful tests of that missile.

(f) SUCCESSFUL TEST DEFINED.—For purposes of this section, a successful test of the interceptor missile of the Theater High-Altitude Area Defense system is a body-to-body intercept by that missile of a ballistic missile target.

Part D amendment No. 34 offered by Mr. SPENCE:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. EXECUTION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.

Section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1932) is amended by adding at the end the following new subsection:

''(g) DELEGATION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.—For the purposes of the Department of Defense, the authority to issue an objection referred to in subsection (a) shall be executed for the Secretary of Defense by an individual at the Assistant Secretary level within the office of the Under Secretary of Defense for Policy. In implementing subsection (a), the Secretary of Defense shall ensure that Department of Defense procedures maximize the ability of the Department of Defense to be able to issue an objection within the 10-day period specified in subsection (c).''.

Part D amendment No. 35 offered by Mr. WELDON of Pennsylvania and Mr. PICKETT:

Page 21, line 12, strike out ''$3,078,251,000'' and insert in lieu thereof ''$4,208,978,000''.

Part D amendment No. 36 offered by Mr. RILEY:

Page 19, strike line 2 and all that follows through page 20, line 16 and insert the following:

SEC. 141. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) PROGRAM MANAGEMENT.—(1) The program manager for the Assembled Chemical Weapons Assessment program shall continue to manage the development and testing (including demonstration and pilot-scale facility testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to the baseline incineration program. In performing such management, the program manager shall act independently of the program manager for Chemical Demilitarization and shall report to the Secretary of the Army, or his designee.

(2) The Under Secretary of Defense for Acquisition and Technology and the Secretary of the Army shall jointly submit to Congress, not later than December 1, 1998, a plan for the transfer of oversight of the Assembled Chemical Weapons Assessment program from the Under Secretary to the Secretary.

(3) Oversight of the Assembled Chemical Weapons Assessment program shall be transferred pursuant to the plan submitted under paragraph (2) not later than 60 days after the date of the submission of the notice required under section 152(f)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)(2)).

(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment program may carry out those activities necessary to ensure that an alternative technology for the destruction of lethal chemical munitions may be implemented immediately after—

(A) the technology has been demonstrated to be successful;

(B) the Under Secretary of Defense for Acquisition and Technology has submitted to Congress a report on the demonstration; and

(C) a decision has been made to proceed with the pilot-scale facility phase for an alternative technology.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December, 1999.

(c) PLAN FOR PILOT PROGRAM.—If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)), the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

(d) FUNDING.—Of the amount authorized to be appropriated in section 107, $12,600,000 shall be available for the Assembled Chemical Weapons Assessment program for the following:

(1) Demonstration of alternative technologies under the Assembled Chemical Weapons Assessment program.

(2) Planning and preparation to proceed immediately from demonstration of an alternative technology to the development of a pilot-scale facility for the technology, including planning and preparation for—

(A) continued development of the technology leading to deployment of the technology;

(B) satisfaction of requirements for environmental permits;

(C) demonstration, testing, and evaluation;

(D) initiation of actions to design a pilot program;

(E) provision of support at the field office or depot level for deployment of the technology; and

(F) educational outreach to the public to engender support for the development.

(3) An independent cost and schedule evaluation of the Assembled Chemical Weapons Assembled program, to be completed not later than December 30, 1999.

(e) ASSEMBLED CHEMICAL WEAPONS ASSESSMENT PROGRAM DEFINED.—In this section, the term ''Assembled Chemical Weapons Assessment program'' means the program established in section 152(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521), and section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in section 101 of Public Law 104–208; 110 Stat. 3009–101), for identifying and demonstrating alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions.

Part D amendment No. 37 offered by Mr. PORTER:

At the end of part I of subtitle D of title XXVIII (page 317, after line 3), insert the following new section:

SEC. —. LAND CONVEYANCE, FORT SHERIDAN, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Lake Forest, Illinois (in this section referred to as the ''City''), all right, title, and interest, of the United States in and to all or some portion of the parcel of real property, including improvements thereon, at the former Fort Sheridan, Illinois, consisting of approximately 14 acres and known as the northern Army Reserve enclave area.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to not less than the fair market value of the real property to be conveyed, as determined by the Secretary.

(c) USE OF PROCEEDS.—In such amounts as are provided in advance in appropriations Acts, the Secretary may use the funds paid by the City under subsection (b) to provide for the construction of replacement facilities and for the relocation costs for Reserve units and activities affected by the conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Part D amendment No. 38 offered by Mr. DOOLITTLE:

At the end of subtitle D of title X (page 228, after line 13), insert the following new section:

SEC. 1032. REPORT ON PERSONNEL RETENTION.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing information on the retention of members of the Armed Forces on active duty in the combat, combat support, and combat service support forces of the Army, Navy, Air Force, and Marine Corps.

(b) REQUIRED INFORMATION.—The Secretary shall include in the report information on retention of members with military occupational specialties (or the equivalent) in combat, combat support, or combat service support positions in each of the Army, Navy, Air Force, and Marine Corps. Such information shall be shown by pay grade and shall be aggregated by enlisted grades and officers grades and shall be shown by military occupational specialty (or the equivalent). The report shall set forth separately (in numbers and as a percentage) the number of members separated during each such fiscal year who terminate service in the Armed Forces completely and the number who separate from active duty by transferring into a reserve component.

(c) YEARS COVERED BY REPORT.—The report shall provide the information required in the report, shown on a fiscal year basis, for each of fiscal years 1989 through 1998.

The CHAIRMAN. The Clerk will report the modifications.

The Clerk read as follows:

Part D amendment No. 13, as modified, offered by Mr. HALL OF OHIO:

The amendment as modified is as follows:

At the end of subtitle B of title II (page 24, after line 25), insert the following new section:

SEC. 214. SCIENCE AND TECHNOLOGY FUNCTIONS OF THE DEPARTMENT OF DEFENSE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) to ensure sufficient financial resources are devoted to emerging technologies, a goal of at least 10 percent of funds available under title II for each of the Army, Navy, and Air Force should be dedicated to science and technology in each military department;

(2) management and funding for science and technology for each military department should receive a level of priority and leadership attention equal to the level received by program acquisition, and the Secretary of each military department should ensure that a senior member of the department holds the appropriate title and responsibility to ensure effective oversight and emphasis on science and technology;

(3) to ensure an appropriate long-term focus for investments, a sufficient percentage of science and technology funds should be directed toward new technology areas, and annual reviews should be conducted for ongoing research areas to ensure that those funded initiatives are either integrated into acquisition programs or discontinued;

(4) the military departments should take appropriate steps to ensure that sufficient numbers of officers and civilian employees in each department hold advanced degrees in technical fields; and

(5) of particular concern, the Secretary of the Air Force should take appropriate measures to ensure that sufficient numbers of scientists and engineers are maintained to address the technological challenges faced in the areas of air, space, and information technology.

(b) STUDY.—

(1) REQUIREMENT.—The Secretary of Defense, in cooperation with the National Research Council of the National Academy of Sciences, shall conduct a study on the technology base of the Department of Defense.

(2) MATTERS COVERED.—The study shall—

(A) recommend the minimum requirements to maintain a technology base that is sufficient, based on both historical developments and future projections, to project superiority in air and space weapons systems, and information technology;

(B) address the effects on national defense and civilian aerospace industries and information technology by reducing funding below the goal described in paragraph (1) of subsection (a); and

(C) recommend the appropriate level of staff holding baccalaureate, masters, and doctorate degrees, and the optimal ratio of civilian and military staff holding such degrees, to ensure that science and technology functions of the Department of Defense remain vital.

(3) REPORT.—Not later than 120 days after the date on which the study required under paragraph (1) is completed, the Secretary shall submit to Congress a report on the results of the study.

Part D amendment No. 22, as modified, offered by Mr. KENNEDY of Rhode Island:

The amendment as modified is as follows:

Page 135, beginning on line 7, strike out ''**AND OTHER NATIONS**'' and insert in lieu thereof **''OTHER NATIONS, AND INDIGENOUS GROUPS**''.

Page 135, after line 16, insert the following (and redesignate the succeeding paragraphs accordingly):

(2) Indigenous groups, such as the Hmong, Nung, Montagnard, Kahmer, Hoa Hao, and Cao Dai contributed military forces, together with the United States, during military operations conducted in Southeast Asia during the Vietnam conflict.

Page 135, beginning on line 17, strike out ''the combat forces from these nations'' and insert in lieu thereof ''these combat forces''.

Page 136, line 1, insert '', indigenous groups,'' after ''Vietnamese''.

Page 136, line 13, insert '', as well as members of the Hmong, Nung, Montagnard, Kahmer, Hoa Hao, and Cao Dai,'' after ''the Philippines''.

Amendment deemed printed in part D of the report by order of the House of May 20, 1998, as modified, offered by Mr. EVERETT:

The amendment as modified is as follows:

At the end of title XII (page 253, after line 3), insert the following:

SEC. 1206. TRANSFER OF EXCESS UH–1 HUEY HELICOPTERS AND AH–1 COBRA HELICOPTERS TO FOREIGN COUNTRIES.

(a) IN GENERAL.—(1) Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2581. Transfer of excess UH–1 Huey helicopters and AH–1 Cobra helicopters to foreign countries

''(a) REQUIREMENTS.—The Secretary of Defense shall make all reasonable efforts to ensure that any excess UH–1 Huey helicopter or AH–1 Cobra helicopter that is to be transferred on a grant or sales basis to a foreign country for the purpose of flight operations for such country shall meet the following requirements:

''(1) Prior to such transfer, the helicopter receives, to the extent necessary, maintenance and repair equivalent to the depot-level maintenance and repair, as defined in section 2460 of this title, that such helicopter would need were the helicopter to remain in operational use with the armed forces of the United States.

''(2) Maintenance and repair described in paragraph (1) is performed in the United States.

''(b) EXCEPTION.—The requirements of subsection (a) shall not apply with respect to salvage helicopters provided to the foreign country solely as a source for spare parts.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2581. Transfer of excess UH–1 Huey helicopters and AH–1 Cobra helicopters to foreign countries.''.

(b) EFFECTIVE DATE.—Section 2581 of title 10, United States Code, as added by subsection (a), shall apply with respect to the transfer of a UH–1 Huey helicopter or AH–1 Cobra helicopter on or after the date of the enactment of this Act.

Mr. SPENCE (during the reading). Mr. Chairman, I ask unanimous consent that the modifications be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT).

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

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong support of the en bloc amendment, and thank the chairman of the committee for including the Bartlett-Solomon amendment in this package. I believe that a picture

is worth a thousand words, and this picture shows a scene which should grab the attention of every Member of Congress.

Last Thursday, on the East Front of the Capitol, 12 members of the New York Air National Guard, all of whom were combat-decorated veterans, surrendered their combat medals and decorations on the steps of the Capitol in protest.

These men, who are some of our Nation's best and brightest, were protesting the actions of the New York Air National Guard, who, with reckless abandon and complete disregard for combat capability, bowed at the altar of political correctness and rushed an unqualified female pilot into the combat unit at the expense of military readiness.

When the members of the Air Guard brought their allegations to their chain of command, their unit was grounded, and the pilots who brought the allegations forward were transferred, demoted, or dismissed.

These brave men, in whom our country has invested over $20 million, have shown that the New York Air Guard investigation into these allegations was fraught with charges of coverup, withholding of evidence, and perjury.

We cannot allow political correctness to ruin the lives and careers of members of the military who have sacrificed their lives for this country. The Bartlett-Solomon amendment will require a DOD inspector general to investigate the grounding of the Air National Guard. I urge support of the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I ask unanimous consent that the debate time for consideration of amendments en bloc be expanded by 30 minutes, and that such time be equally divided and controlled by the gentleman from Missouri (Mr. SKELTON) and myself.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. SKELTON. Reserving the right to object, Mr. Chairman, that gives each side how much time total?

Mr. SPENCE. If the gentleman will yield, Mr. Chairman, that is 25 minutes.

Mr. SKELTON. 25 minutes each? All right.

Mr. Chairman, I withdraw my reservation of objection.

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

Mr. WAMP. Reserving the right to object, Mr. Chairman, is there any way we could designate that extended time, 10 minutes on the Markey amendment, divided 5 minutes per side, on this critical issue of tritium production in the United States of America?

Mr. SPENCE. If the gentleman will yield, Mr. Chairman, we have about 30 people who want to speak now. That just about takes that up.

Mr. WAMP. I understand that, sir. This is a $4.5 billion issue. I think it deserves at least 10 minutes on the floor of the U.S. House of Representatives at this critical time in history, please.

Mr. SPENCE. If the gentleman will continue to yield, Mr. Chairman, I suggest to the gentleman he might get 10 people to say that much, and that would be 10 minutes.

Mr. WAMP. Mr. Chairman, I withdraw my reservation, and ask the ranking member and the chairman to please make sure we get our due time on the floor.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, it is my honor today to rise as a proud sponsor of the Kennedy amendment in the en bloc amendments. This amendment would recognize the services of the military forces of South Vietnam, other nations, as well as indigenous groups in connection with the United States Armed Forces during the Vietnam conflict.

From 1965 to 1971, these indigenous groups, such as the Kahmer, Nung, Hmong, Lao, Montagnard, Hao Hao, and Cao Dai, were the spearhead in the struggle for freedom in Southeast Asia. They fought against both the North Vietnamese army and the South Vietnamese insurgents.

They rescued downed American pilots and protected American air bases, bases from which thousands of missions were flown against North Vietnam. They were armed, equipped, fed, paid, and often transported into and out of conflict by the United States military. They all provided an invaluable service to the American military and to their own people.

By supporting this amendment, we will be giving these veterans the respect and recognition that they deserve. If we support this amendment, no one will ever again say that America and the world does not recognize the valor and courage demonstrated by these veterans in the struggle for freedom in Southeast Asia.

□ 1500

They can take pride in the fact that they will live on in American history as part of a long line of soldiers who fought to make the world a safer place.

In particular, Mr. Chairman, I would like to acknowledge and recognize the contributions of the Hmong and Lau veterans who comprise such a vital segment of the population in my own State of Rhode Island and with whom I have had a good personal working relationship.

On behalf of every one of the 86 Hmong and Lau veterans in my State of Rhode Island and on behalf of the 14,000 Hmong and Lau veterans in this country, I would like to ask my colleagues to show their support for this cause that they fought alongside our American service people with and show that America does not forget them.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, following up on the Bartlett-Solomon amendment, it is under very grave circumstances that we come to the floor today to ask the Inspector General of the Department of Defense to undertake an impartial investigation into a very disturbing and controversial case involving the 174th Fighter Wing of the Air National Guard in my home State of New York.

We cannot explain it all in one minute, but let me just say the members of the 174th, often referred to as the ''Boys from Syracuse,'' have had their names besmirched and their careers destroyed. They should not be kept in the dark any longer. They have turned in their medals from 15 heroes in the Vietnam War because of their protesting of the treatment they got because of politics in the New York State Air National Guard. I hope that we accept the amendment. Let us get on with this investigation.

Mr. Chairman, I rise in support of the amendment I have co-authored with my good friend and member of the National Security Committee, ROSCOE BARTLETT of Maryland.

Unfortunately, it is under very grave circumstances that we come to the floor today to force the Inspector General of the Department of Defense to undertake an impartial investigation into a very disturbing and controversial case involving the 174th Fighter Wing of the Air National Guard in my home state of New York.

Particularly, we are asking the IG to examine what seem to be retaliatory tactics taken against a number of members of that unit after they came forward to report what they believed to be serious wrong-doing by a trainee and superiors in their midst.

The worst part is that this stemmed from another social experiment in the military gone wrong when former Governor Cuomo's administration forced the acceptance of a female pilot into the wing who proved to be incapable of flying in a fighter wing and a constant source of controversy.

Even though this situation dates back several years to 1993, the fallout has been tragic and continues today.

Just last week, I had two of my own constituents turn in all of the medals they had earned from the Air Force as decorated members of the 174th Fighter Wing.

All tolled 15 pilots from the unit turned in their medals and Air Force Wings, many of whom are combat decorated veterans of the Persian Gulf War.

The question is why would so many members of one distinguished unit feel compelled to take such a dramatic step?

Why would the members of a wing who flew 1600 missions in the Persian Gulf War suddenly renounce their allegiance to the Air Force and the New York Air Guard they once so proudly and expertly represented?

Well, Mr. Chairman, the answer is simple to anyone who takes a minute to listen to their story.

These men were forced to retire, had their mental stability placed in question, accused of discrimination, reassigned to jobs copying papers, after being trained to fly fighters at a cost of $20 million to we taxpayers I might add, and otherwise humiliated.

In short, their distinguished military careers were destroyed and their future employment as private pilots jeopardized.

And for what? Because they had the guts to come forward and report wrongdoing in their unit and because they questioned the capability of the high-profile female trainee who couldn't pass muster as a fighter pilot.

Mr. Chairman, the military is not intended to be a social lab.

The American military has to be founded on a warrior culture that strives for uncompromising excellence because their mission is to fight wars and protect our way of life.

This case highlights just how much we place our national security and military preparedness at risk by continuing to press these politically correct experiments.

These principal pilots and officers were concerned for their units combat readiness yet their calls were ignored and they were punished.

That's exactly why we want the IG to examine this case now, Mr. Chairman.

We want to know what rules were violated and by whom, regardless of rank.

We want to know who did or did not perjure themselves during subsequent investigations, one by the military, the other by New York State's Inspector General.

We want to know if there was retaliation by superiors in the military against six pilots who made whistle-blower complaints and expected to be protected by whistle-blower laws.

We want to know if combat readiness was jeopardized.

And most importantly, we want all of this to be made public in full once and for all.

The members of the 174th, often referred to as the 'Boys from Syracuse', have had their names besmirched and their careers destroyed.

They shouldn't be kept in the dark any longer and they deserve to have an investigation into this mess that is open and fair.

Requirinfg this investigation and a report to Congress will provide that and is a positive step toward their complete vindication.

Please support the Bartlett/Solomon amendment.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I appreciate the ranking minority member yielding me the time. I appreciate the support on this I am getting, not just from the chairman and the ranking minority member, but from the gentleman from Virginia who has been an active proponent.

Last year we passed overwhelmingly, unanimously, an amendment that said the United States will not spend more than $200 million per year for our share of the cost of NATO expansion. NATO expansion is one thing. But an American subsidy of France and Germany and England and Italy and Scandinavia and the Benelux countries is quite another. We have a continuing problem.

Our wealthy, powerful European allies, who do not themselves face serious threats, have gotten so used to the American taxpayer picking up the tab for the common defense that they do not make a contribution. Part of the objection to NATO was an objection over an excessive contribution from Americans. We in this amendment take what the State Department and Defense Department told us it would cost and we say that will be the maximum.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I would say the gentleman is absolutely correct. It is a good amendment. We all should support it.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman because this may become a dispute between this body and the Senate, and I hope we will have our conferees standing firm for the American taxpayer if the Senate tries to kill it.

Mr. SPENCE. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank Members on both sides of the aisle for their overwhelming support which enables disabled veterans and their disabled family members to participate in outdoor activities. For example, if they go fishing, they want a rail with a wheelchair or a sub. All funds are paid for by private funds. It has had overwhelming support from the Sportsmen's Caucus with over 200 members.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP. Mr. Chairman, I would like to thank the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON) and other members of the Committee on National Security for accommodating my amendment as part of the manager's en bloc amendment. The amendment that I offered allows service personnel who serve on the Joint Task Force for Full Accounting in Southeast Asia and who are working to seek a full accounting of our MIAs, it will allow them to receive hardship duty pay. There are about 155 members of the task force at any given time and hardship duty pay is up to $300 per month per person.

The men and women on these teams have volunteered for this tour of duty. They are dedicated to recovering and repatriating the remains of their colleagues, but must often work in areas that are littered with unexploded cluster bomb units and Sidewinder missiles. Add to that the malaria and snake infested, poisonous snake infested areas.

They provide great service to our Nation by giving the families of our lost service personnel hope and closure. They fully deserve our support. This small measure will demonstrate our commitment and show that we appreciate the danger that they encounter while on the job.

I had the opportunity to travel there and to see them at work and to experience firsthand the arduous ordeal that they go through in discharging this very, very sacred duty of returning the remains of our lost servicemen and women.

I appreciate this, Mr. Chairman. I appreciate the accommodation and certainly this is, I think, in the best interest of our service personnel and certainly in the best interest of the families of our lost servicemen who have not yet been repatriated.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I thank our chairman for yielding me the time. I want to yield to the gentlewoman from Washington and to the gentleman from North Carolina to explain a very important provision which will give the same tax breaks to our uniformed folks that we have given to the rest of the country with respect to a home sale.

I yield to the gentlewoman from Washington (Mrs. Linda SMITH).

Mrs. LINDA SMITH of Washington. Mr. Chairman, this provision expresses Congress's resolve to fix something that we did not do quite right last year in the Taxpayer Relief Act. Under the Taxpayer Relief Act, we allow people who sell their residence to exclude the first $250,000 of profit or $500,000 for a married couple. To qualify, though, the couple has to live in the home two of the last five years. In military States like mine and the two gentlemen standing with me, that does not always work with the deployment practices of this administration. So we just ask that we change this to say that if they are actively deployed, that also is considered as living in the home. It is only fair and they deserve it.

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from North Carolina (Mr. JONES).

Mr. JONES. Mr. Chairman, I join the gentleman from California (Mr. HUNTER) and the gentlewoman from Washington (Mrs. LINDA SMITH) in offering this amendment today to urge the House to address this issue quickly.

The truth is Congress never intended to change the longstanding policy, that is, to understand the unique nature of homeownership for the American taxpayer serving in the military, when we drafted the Taxpayer Relief Act of 1997. It was an oversight. Clearly, it is unfair to deny men, women in the military the same tax relief as their civilian counterparts. That is exactly what is happening. I urge my colleagues to support this resolution and the legislation to correct this unfairness.

Mr. HUNTER. Mr. Chairman, this just says if you are stationed around the world and you may have been renting your home out for two of the last five years because of the extraordinary demands on uniformed service people, you can designate that home as your place of residence even though you

may be deployed in a different place. I thank both the authors of this legislation. They have done a lot to help our uniformed folks.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

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

Mr. ROEMER. Mr. Chairman, I thank my good friend from Missouri for yielding me this time.

I rise to commend the bipartisan support for this bill and the leadership.

However, I am concerned that the level of modernization funding for our aging tactical trucks, specifically the HMMWV and the 2½ ton truck extended service program, may be inadequate. The Army and Marine Corps have placed HMMWV near the top of their unfunded requirements priority list, but the fiscal year 1999 HMMWV budget request level would result in a gap in HMMWV production.

The Army would require an increase to the budget of $65.7 million to meet existing requirements and avoid a production gap. The Marine Corps would require an increase of $37 million to accelerate replacement of aging HMMWVs with corrosion problems. In addition, the 2½ ton truck ESP program is critical to our Army Guard and Reserve forces which have large fleets of overage trucks. To meet existing requirements and to avoid a production gap, the 2½ ton truck ESP request needs to be increased by $93 million. The Senate version does this, and I would encourage the conferees to support the Senate authorization levels for these programs.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Chairman, I understand the concerns of the distinguished gentleman from Indiana. The committee recognizes the importance of HMMWV and 2½ ton truck ESP and their unique roles in meeting defense requirements. I would like to assure the gentleman that I will ensure your concerns are carefully considered as this bill moves through the conference process.

Mr. ROEMER. I thank the gentleman from Virginia and the gentleman from Missouri and our Republican leadership on this bill.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. HANSEN) for the purpose of a colloquy.

Mr. HANSEN. Mr. Chairman, I rise to engage the chairman of the Committee on National Security regarding the development of fiber optic sensor technology in the Navy's anti-submarine warfare program.

Mr. Chairman, for several years the Committee on National Security has recommended additional funds for research and development of fiber optic technology for the Navy's anti-submarine warfare program. This effort has been highly successful.

Fiber optic technology is playing a major role in the development of advanced sonar centers and arrays for submarines, including the new attack submarine, surface ships, and the advanced deployable system.

This year, however, I am particularly concerned that funding for the advanced deployable system did not specifically address fiber optics and may inadvertently preclude the Navy from accelerating this technology, even though the Navy program office views fiber optics as a high priority.

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

Mr. HANSEN. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Chairman, I am pleased to report to the gentleman that despite the severe constraints on the budget, the committee fully funded the Navy's budget request for the development of fiber optic technology, including $11.3 million to complete the development of the All Optical Deployable System. The Navy's request represents an increased emphasis on the use of fiber optic technology, and I understand that the Navy's anti-submarine warfare plan emphasizes the exploitation of this technology in the future.

Mr. HANSEN. Mr. Chairman, I thank the gentleman from South Carolina for the information and trust that he will continue to work with me to accelerate the development of these important naval technologies.

Mr. SKELTON. Mr. Chairman, I reserve the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, the fiscal year 1997 National Defense Authorization Act directed the Department of Defense to conduct an assessment of alternative technologies for the disposal of assembled chemical munitions. Congress allocated $40 million for the Assembled Chemical Weapons Assessment program in the past year, better known as the ACWA program. ACWA is expected to deliver its recommendations to Congress this December.

My amendment, which has been drafted in consultation with the House Committee on National Security staff, will allow the Department of Defense to continue the ACWA program beyond the demonstration phase. The Riley amendment transfers oversight of the alternative technology program from the Under Secretary of Defense for acquisition and technology to the Secretary of the Army. In addition, it provides $12.6 million for a full pilot demonstration of an alternative to high temperature incineration.

Mr. Chairman, I believe we must continue the progress that we have made in the development of alternative chemical demilitarization technologies. I thank the chairman and the staff for working with me on this amendment and urge my colleagues to support the en bloc amendment.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

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

Mr. TRAFICANT. Mr. Chairman, I want to thank the chairman, the distinguished ranking member for putting my amendments en bloc. One is a Buy American amendment with a compliance report which must be submitted in 60 days. The other would be a simple transfer, some task keeping in my district. I appreciate their help on the transfer of that property.

The third one was an unusual request from the veterans of America to me on my issue of Buy American. It states that when a veteran passes, that flag that is placed in that coffin shall be 100 percent made in America. That is what they wanted.

□ 1515

An unusual request. They did not want the flag to be made somewhere else. And that is in here, and I thank the gentleman because we did not get into any big debate about it.

But there is a fourth very important issue that I ask the chairman and the ranking member to consider. Nearly every major aviation tragedy has been due to bad weather, where the runway was absolutely missed with the existing technology. I am asking that report language, if necessary, or the conference, take up the position that would allow for and authorize a limited testing of laser-guided systems that work second to none in bad weather.

The gentleman from California (Mr. DUKE CUNNINGHAM) knows this; that when a pilot gets down into that cloud cover, they do not have a whole lot of time to react. And most of these aviation tragedies, including Ron Brown's, is they misjudged that landing strip.

So, now, this is not in there. And all I am asking, and I am not even asking that we put money into it, just get the Air Force, with whatever money they can find, if they can find it, to retrofit one air base and try it; where the pilot locks in and lands in the same spot on that runway every time.

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

Mr. TRAFICANT. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Chairman, I appreciate the gentleman's position. As he knows, we have been talking about this thing before, and I will do all I can as we go through the process to make this happen.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's efforts.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON).

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I first of all thank my distinguished chairman for yielding me this time, and thank again our ranking member for his cooperation.

I will speak briefly. I have four amendments, all of which are in the en

bloc, or five amendments, actually. One is a noncontroversial amendment I have cosponsored with the gentleman from Virginia (Mr. PICKETT) clarifying our R&D section of the bill.

A second clarifies our jurisdiction over next generation internet, to make sure that all the funding for next generation internet paid for by the Department of Defense is, in fact, authorized by the defense authorization bill.

The third amendment, Mr. Chairman, deals with the issue of a nuclear race cooperative program with Russia, a very severe problem. It allows our military, where they desire, to in fact exchange cooperative assistance to the Russians in cleaning up what is, in fact, a very real problem with their spent nuclear fuel and with their deactivated nuclear submarines.

The two major amendments I wanted to focus on, first off all is the THAAD amendment. We had, unfortunately, the fifth unsuccessful test of the THAAD program. Working with my colleague, the gentleman from South Carolina (Mr. SPRATT), we have gone in and we have tweaked the contractor. We are giving the Department of Defense the authorization to impose liability on any further failures of the test of THAAD. We break off the missile program to allow the radar and the BMC cube to move forward. They are both very successful. And we say to the Pentagon, bring in a second contractor team to help oversee the THAAD program.

And, finally, the last amendment I do with a distinguished Member, who is the ranking member, the gentleman from Missouri (Mr. SKELTON), and that is to look at the whole issue of how we respond to terrorist incidents. The gentleman from Missouri has been a lead in the body. He has, in fact, requested four consecutive GAO reports on the problems associated with response to planning for weapons of mass destruction and terrorist activities in this country.

My subcommittee has held five hearings on this issue. There are severe problems. James Lee Witt, the head of FEMA, just recently pulled FEMA out of the directorate role because of confusion. What we say to the administration is, it is time to step back and look at reorganizing this process to be more efficient and effective in responding to terrorist incidents.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

It gives me great pleasure to jointly offer this amendment with the gentleman from Pennsylvania (Mr. WELDON). I take this opportunity to commend him for his leadership and his effort, and I certainly enjoy working with him on this very, very important issue for our country, and I thank him for that.

The amendment contains several promising provisions. I am particularly pleased with section 1413, which contains language authorizing a domestic preparedness pilot program. The pilot, aimed at improving the Defense Against Weapons of Mass Destruction Act of 1996, allows the FBI to assist Federal, State and local agencies with threat and risk assessments in order to determine training and equipment requirements. This is something we need. I believe this is a step in the right direction.

Mr. Speaker, addressing the threat of terrorism presents great challenges for our Nation. At present, at least 43 Federal departments, agencies and bureaus are involved. At times, uneven and nearly incompatible levels of expertise exist, and duplication and poor communication may also complicate our effort.

Furthermore, GAO, at my request, as the gentleman from Pennsylvania (Mr. WELDON) pointed out, recently concluded a series of terrorism studies with these observations: That no regular governmentwide collection and review of funding data exists; that no apparent governmentwide set of priorities has been established; that no assessment process exists to coordinate and focus government efforts; and that no government office or entity maintains the authority to enforce coordination.

It is, therefore, within this context that I ask the House to consider this amendment. This language offers the potential to better prioritize training and assistance to American cities. It is also a timely and complementary amendment, in that, as I understand, the President will soon announce recommended improvements to our response program.

Together, these two efforts, this language and the President's proposal, should bring us one step closer to attaining adequate coordination throughout all aspects of government. With an eye aimed toward this goal, I look forward to working with both the majority and the administration over the next several weeks.

I again compliment the gentleman from Pennsylvania and thank him for his coordination and cooperation with me.

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

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I commend the gentleman from South Carolina (Mr. SPENCE) and the committee for their attempt to bring objectivity and honesty to the readiness reporting system.

When I visit with military people in the field, I often hear about the lack of ammunition, spare parts, fuel and other essential equipment that is degrading their training for combat.

I thank the chairman also for incorporating my amendment in the en bloc amendments. This amendment would require the Secretary of Defense to report to Congress on the vital issue of retention. Air Force and Navy pilots, perhaps the most intensely and expensively trained members of the military, are leaving in droves, and other highly trained members of our Armed Forces are also leaving.

Why? Because over the past 5 years they have been asked repeatedly to do more with less. That means more missions of marginal value to the security of the United States, executed with fewer people, older equipment and, most vitally, less combat training.

This amendment will take a look at this. And I want to urge my colleagues to support the amendment and to support the bill.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the en bloc amendment, and I am very happy that the committee has agreed to accept the amendments sponsored by the gentleman from South Carolina (Mr. GRAHAM) and myself for inclusion in the en bloc amendment.

This amendment, quite briefly, continues to make this distinction between nuclear power plants, which are used to generate electricity that have light bulbs and toast made for civilians in their homes, and nuclear power plants or linear accelerators which are used to construct nuclear bombs.

For 50 years in America we have kept these two facilities separate. When people have their lights go on at home, they know they are not making any material that could be used in the construction of a nuclear weapon.

Now, the Congress realized this, and back in 1982, Senator Hart and Senator Simpson were able to pass an amendment which memorialized this. Kept them separate. But there is a little bit of a loophole. They did not mention the word ''tritium.'' And what the gentleman from South Carolina (Mr. GRAHAM) and I are seeking to do is add that word, this critical ingredient for nuclear bombs as well.

Otherwise, the TVA, civilian electricity generator for use in homes, will be able to qualify as a nuclear weapons material bomb making factory. And that is not good, especially when we are trying to convince the Indians that they should not use their civilian reactors for nuclear material; the Pakistanis that they should not use their civilian reactors for nuclear materials; that only military facilities should be used.

The facility that we are talking about here is a civilian facility that is overseen by the Nuclear Regulatory Commission. This is a policy which has served America well for 50 years. I urge the committee to adopt the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, the Reuse Technology Adoption Program, RTAP, assists the military services and defense agencies through

the reuse of computer software, originally developed for older defense systems, in the development of new defense systems.

For fiscal year 1998, Congress provided $2.5 million to continue RTAP as a part of the Defense Advanced Research Projects Agency's Computing Systems and Communications Technology program. Advanced software engineering techniques and training developed under the RTAP program have contributed to the reuse of software and programs such as the Joint Strike Fighter, the F–22, the EF–111 aircraft, the small ICBM, the global positioning system, and the Comanche helicopter. Other RTAP products have also been used in the software technology for Adaptable Reliable Systems programs and by the Institute for Defense Analysis.

Mr. Chairman, I believe the Reuse Technology Adoption Program will result in lower software development and acquisition costs, increase the quality and productivity of software intensive systems, and assist the Department of Defense in developing more efficient and cost effective systems for our Armed Forces.

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

Mr. DAVIS of Virginia. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Chairman, I share the gentleman's views on the results of the programs, such as Reuse Technology Adoption Program, and the contribution such programs can make towards stretching the increasingly limited research and development funds available to DOD.

Mr. DAVIS of Virginia. Mr. Chairman, I thank the distinguished chairman of the committee.

Mr. SKELTON. Mr. Chairman, may I inquire how much time is remaining on each side?

The CHAIRMAN. The gentleman from Missouri (Mr. SKELTON) has 11 minutes remaining, and the gentleman from South Carolina (Mr. SPENCE) has 13 minutes remaining.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Chairman, I thank the ranking member for yielding me this time.

I rise reluctantly in opposition to the en bloc amendments. Our colleague from Massachusetts just spoke about the tritium issue. The Markey-Graham amendment is a dangerous amendment, and I hope my colleagues will listen to me.

The issue is tritium. We will be interrupting, if we adopt this amendment in the en bloc amendments, we will be interrupting an already mandated process by DOE to evaluate how we produce tritium.

This country must have tritium for bombs. But tritium is not a substance that we are not already seeing commercial use of. It is used on airport runways. It is used in exit signs. There have been opportunities before for us to use this very important substance.

Back in 1988, we decided we had enough tritium. In 1993, we decided that we needed more tritium; that we needed to advance the production of it. So we mandated that DOE begin a process of evaluating how we would do that. If we adopt this amendment today, we are eliminating one of the two options for producing tritium that are under consideration by DOE.

So the Members need to be aware this is a very controversial amendment. This is a very controversial process that we will be getting into. And if Members are confused, they should vote against the en bloc amendments in order to allow DOE and the administration to complete a process that we started.

So please pay attention to this amendment. It should not be in the en bloc amendments. There has been no hearing over this particular issue at all, and here we are on the floor, within a matter of a few minutes that we can squeeze out, trying to decide an issue that is extremely important to this country.

Please vote against the en bloc amendments because of the Markey-Graham amendment.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Chairman, I thank the gentleman for yielding me this time.

My amendment would require the secretaries of each military department to draft a plan and set a schedule for implementing best inventory practices for secondary inventory items.

This may sound rather innocuous, Mr. Chairman, but this tiny amendment would reap substantial savings for the Department of Defense, the American people and, perhaps more importantly, the fighting men and women of this great country.

The General Accounting Office recently reported that 62 percent of the hardware items purchased by DOD went unused for an entire year, and that an additional 21 percent of these items had enough inventory to last for more than 2 years.

□ 1530

That means that 77 percent of the Department of Defense's $5.7 billion hardware inventory is wasting away in some warehouse.

With innovative solutions throughout the Department of Defense, our fighting men and women will have more reliable logistic systems at a lower cost, and that is what this amendment is about.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Chairman, first of all, I would like to thank the chairman, the gentleman from South Carolina (Mr. SPENCE), and the gentleman from Missouri (Mr. SKELTON), the ranking member, for accepting one of my amendments regarding soldiers' pensions en bloc.

While I understand this sort of protection is necessary for those who have served honorably, I was most disappointed to see it used as a loophole for enlisted men who have a felony conviction to avoid punishment. My amendment closes this loophole, and I thank them for accepting.

I also rise in support of the Session amendment requiring the Department of Defense to begin using modern, best-business practices, common-sense business practices for its inventory control. I am happy to see that he, as well as members of the Committee on National Security, are finally taking up an issue on which I have been working for many years.

The Department of Defense controls some of the most advanced technology in the world, but its inventory management practices are stuck in the stone ages. Last year, the General Accounting Office reported that DOD was holding a secondary inventory worth $67 billion, and they further reported that $41 billion of which was not needed. They reported there was a hundred-year supply of some items that were totally unnecessary and that it cost taxpayers $90 million a year just to house it.

This amendment will require the Department of Defense to order supplies on an as-needed basis. It will save taxpayers billions of dollars in useless parts and supplies.

I compliment my colleague, and I am glad that he has brought this to the floor, and I hope that it passes.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST) for the purpose of a colloquy.

Mr. GILCHREST. I thank the chairman for yielding.

Mr. Chairman, I would like to engage the gentleman from Florida (Mr. SCARBOROUGH) in a colloquy on the issue of ship scrapping.

Mr. SCARBOROUGH, as we know, the government's program for scrapping obsolete ships of the Department of Defense and the Maritime Administration has recently come under scrutiny because of environmental, health and safety violations that have occurred at some domestic ship breakers and concerns about the conditions under which ships are scrapped overseas.

As chairman of the Coast Guard and Maritime Transportation Subcommittee of the Committee on Transportation and Infrastructure, I held a hearing on the problems of this program in March and will hold a follow-up hearing on June 4, 1998.

Based upon testimony at the March hearing and the recently published report of an interagency panel studying the issue, I continue to have concerns about the ability of DOD and MARAD

to develop a satisfactory plan to dispose of obsolete vessels.

I intend to aggressively pursue the ship scrapping issue with a goal of developing legislation to address this problem next year. I hope to work closely with the Merchant Marine Panel of the Committee on National Security to pursue the goal of establishing a viable and environmentally responsible ship scrapping program.

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

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

Mr. SCARBOROUGH. Mr. Chairman, I understand the concerns of my colleague and want to work with him to examine this issue and work with him for a solution for the ship disposal problem that does not impose additional regulatory or financial burdens upon the Department of Defense or the Maritime Administration.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Florida (Mr. SCARBOROUGH) and the Chairman for their cooperation in this matter.

Mr. SKELTON. Mr. Chairman, I reserve the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

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

Mr. WAMP. Mr. Chairman, I am coming back to this tritium issue, the Markey amendment. We need to focus on this as part of this en bloc amendment.

Tritium is a gas. It is necessary to maintain our nuclear weapons capability in the United States of America. Just look around the world and we know that we need to do that. So we have to produce a tritium source again by a date certain. The Department of Energy was given a mandate, as the gentleman from Alabama (Mr. CRAMER) said, by Congress to pursue these legitimate options. And we must produce tritium.

Two options exist. One is an accelerator-based project, which would be built in the State of South Carolina, at an estimated cost of more than $4 billion with a pretty high annual operation cost. The accelerator has not been built, so the technology is really unproven and untested.

The other option, which has been tested, is to use a commercial reactor. TVA, the Tennessee Valley Authority, which has a defense mission in its charter, was given the Department of Energy project to test tritium. It has been enormously successful. We have tested the production of tritium in a commercial reactor. It is safe and reliable, and the operational costs are lower. And the initial capital cost, the total cost, is $2½ billion less than the accelerator.

But the Markey amendment, working with the leadership of this committee, is eliminating the cheaper option completely. The Senate will not revive it, I am afraid. This may be the last chance to save the taxpayers $2½ billion and do the right thing.

The National Taxpayers Union is against it. Citizens Against Government Waste is against it. The gentleman from Massachusetts (Mr. MARKEY) speaks eloquently. But, frankly, there is fear tactics being implemented about the safety of testing tritium or producing tritium at a commercial reactor.

This is a political power play that is going to cost the American taxpayers big time over time. This is arbitrary. Please vote and reluctantly vote against the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. GRAHAM).

Mr. GRAHAM. Mr. Chairman, now the rest of the story about tritium.

The good news is that when we are talking about tritium, something we ought to be talking about, my good friend the gentleman from Tennessee (Mr. WAMP) is absolutely right, it is an essential component to keep a nuclear deterrent force operational.

I speak about it from representing a district that has made tritium for the United States military for about 50 years. There is parochial interests involved. If they do not have a dog in this tritium, they make a decision they think is good for the country. But let me point a couple things out to my colleagues.

The reactor they are talking about that TVA owns is 85 percent complete. They do not have the money to complete it. Nobody will buy it, and they are trying to dump it on the Department of Energy. Let me tell my colleagues what would be so dangerous to let this happen.

The gentleman from Massachusetts (Mr. MARKEY) is right. Seldom do we agree on anything. And this is an historic agreement in Congress when the gentleman from Alabama (Mr. GRAHAM) and the gentleman from Massachusetts (Mr. MARKEY) can agree on something.

But if we allow a commercial reactor to make a nuclear weapons product, we are taking 50 years of American public policy and turning it on its head at a time the world is in the most danger it has been in recent times. And what are we going to tell the Indians when they use their commercial power plants to make nuclear weapons? ''Do not do that like us''? That is not what we want to tell them.

Let us talk about money. I will take my position as a fiscal conservative against anybody in this body. The $4 billion price tag we hear about the accelerator, the other way of making tritium, is too much. $4 billion is too much to spend.

A modular design is being had right now to reduce the cost of the accelerator to $2.6 billion. If they use the TVA numbers to complete this reactor, which is 85 percent complete, they say $2½ billion. A utility that looked at buying the thing said it cost over $4 billion to complete.

If they go down this road, they will be in court forever. Because every group in this country will sue them to keep them from using a commercial reactor to make a military product, and they ought to sue them. It will never happen. Do not take a bad reactor off TVA's hands and mess up American military policy.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Chairman, tritium production is necessary for our national defense; and it is certainly reasonable to select the safest, most economical source of production.

The Markey amendment which we have discussed today would force the Department of Energy to select an unproven accelerator option that is three times the cost of proven commercial lot water reactor technology.

The Council for Citizens Against Government Waste opposes the Markey amendment, and with good reason. Should the accelerator option not perform well or suffer delays in development, the government could be forced to purchase a light-water reactor in addition to the accelerator in order not to hamper our national security.

We can safely spend $1.8 to $2 billion on a commercial light-water reactor or risk $4 billion to $6 billion on the accelerator option. Unless the Markey amendment is removed, I must vote against the en bloc amendments and strongly encourage my colleagues to do the same.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BARR) for a unanimous consent request.

MODIFICATION TO AMENDMENT NO. 24 OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I ask unanimous consent that the amendment at the desk in place of amendment D–24 be inserted in this en bloc amendment.

Chairman. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. BARR of Georgia:

The amendment as modified is as follows:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COUNTER-DRUG CENTER IN PANAMA.

In anticipation of the closure of all United States military installations in Panama by December 31, 1999, it is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should continue negotiations with the Government of Panama for the establishment in Panama of a counter-drug center to be used by military and civilian personnel of the United States, Panama, and other friendly nations.

Mr. BARR of Georgia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARR of Georgia. Mr. Chairman, I appreciate the opportunity to have this amendment in the en bloc amendment, and particularly as amended.

This amendment puts the Congress of the United States firmly on record as encouraging and supporting and urging the administration of this country and the administration in Panama to do everything possible to move forward the negotiations for the development of a multinational counter-drug center to be located in Panama after the date of December 31, 1999, which is when all U.S. military and civilian presence in control of the canal ceases.

This is a very important set of negotiations that are moving forward. They have not been moving forward with the dispatch that is necessary. And I think it is important in our joint effort with Panama and our colleagues in Latin America to go on record as encouraging, supporting and proactively moving forward with these very important negotiations for the development of a multinational counter-drug center to be located in Panama with military and civilian personnel from Panama, the United States and other friendly nations to fight the war against drugs.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the Chairman of the Committee for yielding me the time, and I thank the ranking member for supporting my amendment, which is included in the en bloc amendment. And I encourage all my colleagues to vote for the en bloc amendment.

My amendment is an amendment to fence off the funds for the modernization of the eastern test range located in Cape Canaveral in my district in Florida, as well as the western test range in California.

For years now, DOD, because of multiple demands from all of these overseas deployments, has been raiding various accounts, to include the account for modernizing our test ranges. The result is that the range modernization programs are falling way behind.

I recently witnessed a launch of a probe to Mars being scrubbed at Cape Canaveral because of the failure of a tube. Yes, a tube. We are relying on antiquated technology to keep our launch ranges operational. This is a disgrace. Support the modernization of our ranges. This is a critical issue to our national security. I encourage a yes vote on the en bloc amendment.

Mr. SPENCE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLITTLE) for the purpose of a colloquy.

Mr. DOOLITTLE. Mr. Chairman, I want to commend the gentleman from South Carolina (Mr. SPENCE) for his commitment to force readiness. He knows well how the cuts in training have put our national security at risk.

But I would like to ask for his commitment that when this bill is in conference that he will fight to maintain the House readiness reporting language and will work to keep my amendment on retention in the conference report.

Mr. SPENCE. Mr. Chairman, if the gentleman will yield, he can depend on it. We realize the importance of readiness is one of the important problems we have, and we will do our best to keep it in there.

Mr. DOOLITTLE. Mr. Chairman, I appreciate it.

Mr. EVERETT. Mr. Chairman, I rise in support of this en bloc amendment package, which includes my amendment to require that all excess military helicopters meet certain safety and operational requirements before they can be transferred to foreign governments. Any work required to meet these standards must be done by a qualified U.S. company in the United States. The amendment has been modified to meet the concerns of the International Relations Committee.

The purpose of this amendment is two-fold.

First, to ensure that when we transfer these helicopters (primarily UH–1 Huey's) to our allies for counter drug missions or other purposes, that the aircraft are actually operational, and at least, meet minimum safety standards. The current ''where is, as is'' standard often means these aircraft are not airworthy when they are transferred. Mexico has a large fleet of our excess Huey's rotting in a field, because they haven't been overhauled and can't fly.

Secondly, to help maintain the aviation industrial base, any work necessary to bring these aircraft up to these minimum standards ought to be done in the United States, by American workers. This would be consistent with the standard that we currently use for the transfer of naval vessels.

In the near term, most of these excess aircraft are destined for Columbia and other South American countries to help them fight the war on drugs. If America is serious about stemming the tide of the illegal drugs that are infiltrating our borders, we ought to send our allies overhauled Huey's with a five to ten year life extension, rather then an ''as is'' Huey that may last two months.

This policy change makes sense and I urge all members to support this amendment.

Mr. SHUSTER. Mr. Chairman, the amendment pending before the House, offered by Mr. WELDON of Pennsylvania and Mr. SKELTON of Missouri addresses matters relating to domestic terrorism involving weapons of mass destruction. Such matters fall within the jurisdiction of the Committee on Transportation and Infrastructure through our jurisdiction in Rule X, clause (1)(q) over ''Federal management of emergencies and natural disasters,'' including activities of the Federal Emergency Management Agency (FEMA), the lead federal agency for domestic emergency preparedness and response.

While I have some concerns about how broadly this amendment has been drafted, I fully support the intent of this Weldon/Skelton amendment to provide for proper coordination of Federal, State, and local efforts to prepare for and respond to domestic terrorism. Accordingly, I look forward to working with members of the National Security Committee in a House-Senate conference on this bill to provide some additional direction to the President to ensure that the authorizations provided by this amendment will not be used to undertake activities beyond the intent of Congress.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the Hall-Boehlert Amendment which contains a series of sense-of-the Congress expressions directing the Department of Defense to focus more attention to long-term scientific research. It also requires the Secretary of Defense to initiate a study and recommend minimum requirements to maintain a defense technology base that is sufficient to project superiority in air and space weapons systems and information technology.

The amendment urges that the Defense Department give science and technology attention equal to the level received by program acquisition; that the secretary of each military department ensure that a senior member of the department holds the appropriate title and responsibility to ensure effective oversight and emphasis on science and technology; and that annual reviews should be conducted to ensure a sufficient percentage of science and technology funds are directed toward new technology areas.

In the past, establishing science and technology as a priority for our military has effectively contributed to our National defense and it will be even more important in the future. Once, in an era of simpler technology, America's superior brain power could over take the enemy's technology through sudden spurts of scientific development. But now, with longer lead times for technology development, the Nation no longer has the luxury of ramping up scientific research only during the time of crises. Only a vital, invigorated, and ongoing science and technology program will provide our military with the technology required to maintain air, space, and information superiority.

Recent budget requests by the services, especially the Air Force, do not reflect the need for basic scientific research to maintain future military supremacy. My hope is that this amendment will instill the longer term view needed in the services to create quantum leaps in capability in the next century.

I thank Mr. BOEHLERT, the cosponsor of the amendment for his support on this issue. I urge the adoption of the amendment.

Mrs. CAPPS. Mr. Chairman, I rise in support of the en bloc amendment, which includes the Weldon-Capps provision. I want to commend my colleague from Florida, Dr. WELDON, for his hard work and leadership on this issue and I am pleased that the Committee has agreed to accept this important amendment.

This bill continues the commitment that we must make to ensure that our national defenses are strong enough to keep our country safe. It also continues the commitment that we have to the men and women of our armed services to ensure that they are provided with the equipment, facilities and support necessary to do their jobs safely and efficiently. They deserve nothing less.

The Weldon-Capps amendment does one simple thing: It protects funds in the Air Force Budget that are supposed to go to modernize our two launch ranges at Vandenberg AFB and Cape Canaveral. The upgrading of these facilities is crucial for our national defense and to support our growing commercial space industry.

The Air Force is currently undertaking a multi-year, $1.3 billion range modernization program for these two sites. Originally, it was

to be completed in 2003. However, this modernization program for our launch ranges is now running three years behind schedule, and is now not expected to be completed until at least 2006.

This delay has arisen because over the last five years funds have been continually siphoned off and used for other Air Force projects. This has needlessly delayed the much needed upgrade of the launch ranges at Vandenberg and at Cape Canaveral.

These are the primary launch facilities in the continental United States and their role is crucial in all of our space activities. However, a lack of modern infrastructure has seriously hindered U.S. space launch capabilities and it costs the Air Force money to maintain outdated facilities.

Unless we act to ensure that these funds are dedicated to this critical project, we will continue to hinder our military, NASA and commercial launches.

I am grateful that the Committee has recognized the value of this amendment to our national security and will support its addition to the bill.

Mr. SPRATT. Mr. Chairman, I rise in opposition to the Gilman amendment although I agree with many of the concerns about nuclear proliferation which he expresses.

I oppose the Gilman amendment because it is unnecessary, and it runs counter to our efforts to discourage nuclear proliferation. Non-OECD countries like Taiwan, Thailand, and others, are planning the construction of several nuclear power facilities over the next decade. U.S. companies are on the cutting edge of these technologies having recently developed and licensed advanced light water reactors which are strong competitors for this business. Business which could run into the billions of dollars.

But our interests here are not just commercial. Unlike their counterparts designed in Russia and elsewhere, U.S. light water reactors are at very little risk for nuclear proliferation. Our reactor designs are not conducive to the production of highly enriched uranium, plutonium, or other weapons materials. U.S. citizens can rest easier knowing that reactors built in these non-OECD countries are not producing weapons materials.

Sometimes the United States must sacrifice its commercial interests for the sake of national security, and I have supported that. But in the area of nuclear power technology, encouraging the use of U.S. designs significantly enhances our nonproliferation efforts, and enhances nuclear safety. And these sales will produce significant revenues for the U.S. treasury. The treasury will receive royalties as a result of our contribution to the Advanced Light Water Reactor program.

Current law already requires licenses and an opportunity for public comment in the export of these technologies. Adding a layer of complexity to this process is unnecessary. I urge a no vote on the Gilman amendment.

Mr. SPRATT. Mr. Chairman, I rise in strong support of the Weldon-Spratt amendment.

On May 12 the U.S. Army performed its eighth test of the THAAD anti-ballistic missile system. The test was a failure, and this failure comes despite almost a year of preparation following a string of 3 earlier unsuccessful intercept tests.

The Weldon-Spratt amendment addresses this problem in an aggressive manner. The amendment directs the Department to identify and contract with a company capable of producing the THAAD system in a leader-follower contract arrangement. In other words, we are telling Lockheed Martin that if they cannot fix the THAAD interceptor, the contract may be taken away from them. The amendment also directs DOD to modify its contract to ensure that THAAD's primary contractor shares in the cost of future test failures. Both steps are needed to bring necessary accountability to this program. Both steps are taken in the sincerest desire that they help the program succeed.

We take steps for the simple reason that THAAD is too important to fail. The THAAD system is the archetype upon which we are patterning our family of systems for missile defense. It is the mother of all missile defense systems, if you will.

THAAD is not the first system to experience difficulties in testing, and the Weldon-Spratt amendment builds on past experience in utilizing the prospect of competition to encourage improved program performance. Many members will remember the numerous problems experienced with the C–17, where the prospect of competition was used effectively by the Congress to bring focus back to the program. And the C–17 is now a success.

It is important to recognized that large portions of the THAAD system are and have been working well. The THAAD radar and its battle management command, control, and communications systems are working well. The Weldon-Spratt amendment allows these components of THAAD to proceed to the Engineering Manufacturing and Development (EMD) phase when they are ready.

Finally, the Weldon-Spratt amendment clarifies the criteria for allowing the program to proceed with the procurement of 40 UOES test missiles. We mandate two successful kinetic kill intercepts before any funding is committed for UOES procurement.

Mr. Chairman, these steps are necessary and prudent and I urge all members to support the Weldon-Spratt amendment.

Mr. CLEMENT. Mr. Chairman, today, I rise in strong opposition to the Markey-Graham amendment which would prohibit the production of tritium at Commercial Light Water Reactors (CLWR) for defense purposes. But I also want to raise the fact that this amendment is being considered in Mr. SPENCE's ''en bloc'' amendment with a group of amendments that are non-controversial in nature. And, for the most part I support the en bloc amendments.

However, the Markey-Graham amendment deserves an up or down vote on its own. This is a controversial issue and a major policy decision. This should not be buried in the en bloc amendment. Because, if we were to vote on this amendment alone—Members would have to vote against Markey-Graham. From a budgetary and fiscal standpoint, the Markey-Graham amendment eliminates choice of a more economic and scientifically proven method for tritium production—use of an existing commercial light water reactor.

Tritium gas is an essential component for nuclear weapons. In fact, tritium gas is used in every U.S. nuclear weapon to enhance its explosive yield. The last time the U.S. production tritium was in 1988 at a test reactor at Savannah River. That facility was shut down and the U.S. has not produced tritium since then.

In 1993, both the Department of Energy and the Department of Defense determined that the production of tritium must be resumed to enable the U.S. to maintain its weapons stockpile. Under current law, DOE will make a decision on tritium production by December of this year.

DOE has been engaged in a lengthy, thorough examination of the technology, environmental impact, cost, reliability, and nonproliferation concerns of each option. It is imperative to allow DOE to finish their review of the options an make an informed decision, selecting the option that best serves the national interest. This amendment would short circuit that important process and arbitrarily force DOE to select the accelerator option.

The accelerator option—by any standard—costs at least two times as much as the commercial reactor option. That's right, estimates from DOE and CBO show that the commercial reactor projected costs range from $1.8–$2.0 billion while the costs for the accelerator are in the $3.9–$6.72 billion range. Plus, approximately $150 million in federal funds for annual operating expenses would be required at the accelerator, whether it manufactures tritium or not. Do the math. It defies fiscal responsibility to eliminate the commercial reactor option from consideration.

And, it is important to remember that tritium production in a commercial reactor is NOT a proliferation issue. Let me repeat that—according to the Nuclear Non-Proliferation Treaty the production of tritium in a commercial reactor is not a proliferation issue. Tritium is not considered to be special nuclear material. And, it can be produced for commercial use—it is used to illuminate objects such as airport runway lights and non-electrical signs.

There is no question in my mind that my constituents and yours—and all American taxpayers—deserve an informed decision that has considered the cost and technological advantages, as well as the proliferation concerns of each option.

That is why I am voting no on the Markey amendment and urge my colleagues to vote no on the Markey amendment, as well.

Mr. STENHOLM. Mr. Chairman, I rise today in support of an amendment which will improve TRICARE, the military managed health care program. I have the privilege of representing the 17th District of Texas which includes Abilene, TX. Abilene is located one of the first regions in which TRICARE was implemented. There were many problems with the start up of the TRICARE Program in our area, and although many of the initial bugs have been worked out of the system, there are still several areas of improvements to the program which are needed—improvements which will help to maintain and to improve access to quality health care for our Nation's military, their dependents, and retirees.

One of the issues my constituents have identified is claim processing and the hassle associated with the TRICARE system. TRICARE requires that its regional contractors use a computer software program known as ClaimCheck. ClaimCheck is a bundling system similar to the Correct Coding Initiative used by the Medicare Program which ''bundles'' claims for multiple services performed during a single visit to a health care provider. When claims are bundled, services considered to be incidental to the primary service are reimbursed at a lower rate.

Currently there is no provision for appeals from ClaimCheck denials even though the Department of Defense has acknowledged that ClaimCheck software in some cases contradicts Department policy. The Department of Defense has indicated an interest in establishing a formal appeal process; however, no concrete steps toward establishing such a process have been taken. The amendment Congressman THUNE and I have proposed would simply require the Department to prepare and submit a proposal to establish an appeal process which could simply mean incorporating ClaimCheck denials into the existing appeals process. The amendment does not dictate the nature of the process.

Although this is a small step to decrease the hassle-factor for both military patients and civilian doctors, I believe it is an important step in the right direction to improve the military health care system and the quality of life of those who serve and have served our nation.

I urge my colleagues to support this amendment by voting for the en bloc amendment in which it is included.

Mr. GIBBONS. Mr. Chairman, the amendment that I am offering before the House today will compel the Secretary of Commerce to transmit any information that is requested by the Director of Central Intelligence, Secretary of Defense, Secretary of Energy, and Designees of these three officials in a timely manner (defined as within 5 days of request) upon receiving a written request for such material. The information that these officials could request includes: export licenses and information on exports that were carried out under an export license by the Department of Commerce and information collected by the Department of Commerce on exports from the United States that were carried out without an export license.

The amendment doesn't ask them to produce new data or collect additional information. It simply requires the Secretary of Commerce to provide the information that he maintains—as a part of his department's day-to-day mission—to these selected Executive Branch Secretaries to enable them to do their jobs of producing intelligence and protecting our nation.

Mr. Chairman, until recently, I would not have believed that this body would have to mandate timely cooperation between Executive branch departments. However, when the defense of this nation and it's citizens is challenged or compromised—the time has come.

The current situation with China and the transfer of satellite technology is in the news right now, but similar situations inside the administration are proliferating almost as quickly weapons of mass destruction are around the world.

Let me share the example that focuses on the seriousness of the issue.

In last year's defense bill, the National Security Committee recommended a study to assess the extent and the impact of the distribution of U.S. and allied supercomputers to China, the former Soviet Union, Iran, Iraq, Syria and Libya.

The National Security Committee has been increasingly concerned about technology transfers of this type in recent years.

The study would have assessed the effect of the technology transfers on the design, development, manufacturing, performance and testing of nuclear, chemical and biological weapons; weapons platforms; command and control communications; and financial, commercial, government and military communications.

The Defense Intelligence Agency and the Department of Energy were assigned the task of conducting the analysis.

However, they were unable to get any assistance from the Department of Commerce.

They needed assistance from Commerce since Commerce is charged with the responsibility to control the export of sensitive technologies that have both military and civil applications.

The Department of Commerce refused to cooperate for the entire period of the study. Only after pointed communications from the Chairman and Ranking Member of the National Security Committee, did they provide ''derivative'' data that was not usable for the analysis that had been requested.

Mr. Chairman, it is not uncommon for our intelligence entities to have to go to other Executive Branch departments to collect ''raw'' information that they process into usable intelligence. It is a common requirement that has not presented a problem in the past.

This ''stonewalling'' behavior by Commerce was unprecedented. While it was unprecedented, it was no less excusable!

This was one Executive Branch department refusing to provide information to another Executive Branch department.

I am at a loss to explain the difference between Commerce's response and the responses of the other Executive Branch departments. Did Commerce have something to hide or was there something else at play in this incident?

Commerce's intransigence had national security implications and it is incumbent on us to ensure that our decisions are not affected by faulty information and analysis in the future!

Our national security demands that the Congress and the President make decisions based on timely, accurate and truthful intelligence.

I urge my colleagues to support my amendment and ensure that our national security is not compromised in the future.

FISCAL YEAR 1998 NDAA—IMPLICATIONS OF TECHNOLOGY TRANSFER; ''A CASE STUDY OF THE STALL''

July 15, 1997—The HNSC recommended a study be conducted by the Defense Intelligence Agency (DIA) to study the distribution of United States and allied supercomputers to China, the former Soviet Union, Iran, Iraq, Syria and Libya to Assess the impact of Technology Transfers on:

Nuclear weapons design, development, manufacturing, performance and testing chemical and biological weapon design, development, manufacturing, performance and testing;

Design, development, manufacturing, performance and testing of major weapons platforms (tactical aircraft, cruise/ballistic missiles, submarines);

Anti-submarine warfare; command and control communications; intelligence collection, processing and dissemination; financial, commercial, government and military communications.

December 10, 1997—Chariman SPENCE and ranking minority member DELLUMS requested the study of DIA and asked for a report by 2 March 1998. Chairman SPENCE and Mr. DELLUMS also asked the Department of Energy to conduct a review concentrating on the impact of high performance computer exports on the design, development, manufacturing, performance and testing of nuclear weapons and associated delivery systems.

Early December 1997—The staffs of DIA and DOE submit oral requests for information from the Department of Commerce for all the info they have on supercomputers to the study target countries. The Department of Commerce is the executive agency with responsibility to control the export of sensitive technologies that have both military and civil applications. These oral requests were denied.

December 22, 1997—The Director, DIA, LTG Patrick Hughes wrote to the Deputy Secretary of Commerce and requested that the Commerce Department supply the information on supercomputer exports. The Commerce Department finally responded on 3 February 1998.

January 7, 1998—Chairman SPENCE and Mr. DELLUMS wrote to William Daley, Secretary of Commerce asking that the Department of Commerce provide the requested information to the DIA and DOE.

February 3, 1998—Under Secretary of Commerce William Reinsch responded to the December 22 letter from DIA.

Under Secretary Reinsch stated that Commerce would defer to the DCI on who should conduct the study that had been tasked to DIA and DOE. The CIA later attempted to transfer the requested information to the DIA and DOE but the Department of Commerce refused to allow such a transfer.

March 3, 1998—The Director, DIA wrote the HNSC that he could not complete the study because he was not able to obtain the necessary information from the Department of Commerce.

March 3, 1998—Chairman FLOYD SPENCE of the House National Security Committee wrote to William Daley, Secretary of Commerce.

Chairman SPENCE stated his understanding that the Department of Commerce had declined the DIA and DOE requests for information on supercomputer exports.

Chairman SPENCE stated that, ''I find the prospect that information is being denied to intelligence agencies that are attempting to determine the effect of illicit exports on U.S. national security highly disturbing and believe such dilatory tactics are indicative of a cavalier attitude by your department on matters of national security.''

Chairman SPENCE again requested the personal assurance of the Secretary of Commerce that Commerce would cooperate fully with the requested intelligence review.

March 3, 1998—the Secretary of Commerce responded to the January 7, 1998 letter from Chairman SPENCE and Ranking Minority Member DELLUMS.

Secretary Daley's letter stated, ''the Department of Commerce has been in contact with the Director of Central Intelligence regarding this matter, and we intend to defer to his judgment on how to best proceed with respect to the conduct of the study.'' (See the entry for February 3, above.)

March 9, 1998—the DIA and the DOE received ''derivative'' supercomputer export information from the Department of Commerce.

April 30, 1998—the Director of the DIA wrote to Under Secretary of Commerce Reinsch thanking him for the ''derivative report'' on the export of high performance computers but stating that the information provided by Commerce ''does not provide the requisite data necessary to complete a comprehensive review.''

General Hughes asked Commerce to provide DIA with the raw export data obtained from U.S. supercomputer manufacturers so that DIA could conduct its own independent analysis.

May 19, 1998—as of this morning, Commerce has not provided any additional information to DIA to enable them to complete the study.

Mr. Chairman, I offered this amendment today to address a vital national security issue. That issue is the failure of the Department of Commerce to provide complete and accurate information to our organizations that are charged with assessing threats around the globe.

The need for analysis to have a flow of raw data to produce intelligence is as old as war itself. Skilled analysts sift through the bits and pieces of everyday trivia and find patterns that allows them to formulate an adversary's likely intentions.

The Congress relies on the technical analysis of national intelligence resources. Last year, this Congress was concerned with the threat that was posed by the transfer of technology around the world.

The National Security Committee requested a study addressing the impacts of past transfers. Mr. Speaker, I find it inexcusable that the study could not be completed because the Department of Commerce refused to work with the Departments of Defense and Energy on the study.

The responsibility for controlling much of this technology was transferred by the administration to the Commerce Department last year, over the objections of both the Department of State and the Department of Defense.

The recent nuclear tests in India; Pakistan's threats to conduct its own tests and the improper transfers of technology to the Chinese underscore the dangerous nature of our world today.

We cannot allow ourselves to be forced to make decision with anything less than the best information and intelligence. We cannot allow executive branch departments to determine what information is important and what isn't.

This amendment ensures that our intelligence community has access to vital information. Let's allow our analysts do their jobs!

Vote yes on the Gibbons amendment.

Mr. HILLEARY. Mr. Chairman, I rise today in strong opposition to the Markey tritium amendment within this en bloc package. It is unfortunate that such a contentious issue is being included in what is historically a noncontentious package.

The Markey amendment would change the Atomic Energy Act by prohibiting tritium production in commercial nuclear reactors. This amendment is bad public policy and reckless economic policy. The American taxpayer deserves better than to be forced to pay for a project three times as expensive as the competition.

Tritium is an isotope of hydrogen that is required by all U.S. nuclear weapons in order to function as designed. Because tritium decays at a rate of about 5.5% per year, it must be replaced periodically to maintain our nuclear weapon stockpile.

The U.S. has not produced tritium since 1988, when the last tritium production reactor was shut down. By Presidential Directive, the Department of Energy must have a new supply of tritium available by 2005.

The Tennessee Valley Authority's (TVA), Watts Bar Nuclear Plant 1, has been selected by the Department of Energy (DOE) to conduct a one-time of components, to produce tritium in commercial light water reactors. If awarded the contract to produce tritium, the Bellefonte nuclear plant would assume the primary role, with Watts Bar as the backup. Total cost to the taxpayer for the TVA contract; about $1.8 billion. However, the competing ''accelerator'' proposal is going to sock the American taxpayers with a price tag around $7 billion.

For reasons ranging from unfair competition to wasteful government spending, it is only appropriate that Citizens Against Government Waste is also OPPOSED to the Markey amendment.

Again, the tritium program is a key element in DOE's Stockpile Stewardship and Management Program to ensure safety and reliability of the nuclear weapons stockpile without testing. We have to produce it and we should encourage fair competition.

The purpose of the Watts Bar test is to confirm excellent results from prior testing. This will provide added confidence to utilities, the public, and the Nuclear Regulatory Commission which regulates commercial reactors, of which tritium can be produced to meet national security requirements in a technically straightforward, safe and cost-effective manner.

The bottom line is this; TVA's professional experience, infrastructure and smart economic proposal exceed DOE's criteria. We should not legislatively hinder the Department of Energy's ability to choose which facility produces tritium.

By allowing the Markey amendment to pass, the federal government and the American taxpayer lose. We will lose the ability or fair competition, and we lose the opportunity to save money. The commercial reactor proposal allows money to be paid back to the Treasury from the sale of energy from the commercial reactor, thus we will recoup costs. The ''accelerator'' proposal has NO cost recoupment.

We must promote competition, and the Markey amendment does not. It would force the Department of Energy to choose one proposal for tritium production by default, and by doing so, sinks upwards of $8 billion into a new special facility.

I strongly encourage my colleagues to oppose the Markey amendment. Let the Department of Energy and their experts determine the most cost effective, safe, and professional tritium facility, not Congress.

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of the Hall/Boehlert amendment which is included in the en bloc amendment, our amendment expresses the Sense of Congress that adequate resources—funding and personnel—be applied to the science and technology activities of the Army, Navy, and Air Force. The amendment will require the Secretary of Defense to initiate a study and recommend minimum requirements to maintain a defense technology base that is sufficient to project superiority in air and space weapons systems, and information technology.

A robust science and technology investment is critical if our Armed Forces are to move into the 21st Century and operate at the cutting edge of technology. The future of American defense rests on our ability to improve our technology and maintain our military superiority.

We must ensure that our Armed Forces continue to apply the necessary attention and resources to science and technology development if we are to safeguard our future national security. The investments we make today will make the difference tomorrow. I thank my colleague and co-sponsor, Mr. HALL of Ohio, for his work on this amendment and urge my colleagues to vote in favor of it.

Mr. SKELTON. Mr. Chairman, we have no further requests for time. Thus, I yield back the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendments en bloc offered by the gentleman from South Carolina (Mr. SPENCE).

The amendments en bloc were agreed to.

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The CHAIRMAN pro tempore (Mr. PEASE). It is now in order to consider amendment No. 4 printed in part B of the House Report 105–544.

AMENDMENT NO. 4 OFFERED BY MR. THORNBERRY

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B, amendment No. 4 printed in House Report 105–544 offered from Mr. THORNBERRY:

At the end of title VII (page 197, after line 5), add the following new section:

SEC. 726. DEMONSTRATION PROJECT TO INCLUDE CERTAIN COVERED BENEFICIARIES WITHIN FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) DEMONSTRATION PROJECT.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1108. Health care coverage through Federal Employees Health Benefits program: demonstration project

''(a) FEHBP OPTION DEMONSTRATION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to conduct a demonstration project under which not more than 70,000 eligible covered beneficiaries described in subsection (b) and residing within one of the areas covered by the demonstration project may be enrolled in health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5.

''(b) ELIGIBLE COVERED BENEFICIARIES.—(1) An eligible covered beneficiary under this subsection is—

''(A) a member or former member of the uniformed services described in section 1074(b) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

''(B) a dependent of such a member described in section 1076(b) or 1076(a)(2)(B) of this title;

''(C) a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days; or

''(D) a dependent described in section 1076(b) or 1076(a)(2)(B) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member's or former member's eligibility for such hospital insurance benefits.

''(2) A covered beneficiary described in paragraph (1) shall not be required to satisfy

any eligibility criteria specified in chapter 89 of title 5 as a condition for enrollment in health benefits plans offered through the Federal Employee Health Benefits program under the demonstration project.

''(3) Covered beneficiaries who are eligible to enroll in the Federal Employment Health Benefits program under chapter 89 of title 5 as a result of civil service employment with the United States Government shall not be eligible to enroll in a Federal Employees Health Benefits plan under this section.

''(c) AREA OF DEMONSTRATION PROJECT.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly identify and select the geographic areas in which the demonstration project will be conducted. The Secretary and the Director shall establish at least six, but not more than ten, such demonstration areas. In establishing the areas, the Secretary and Director shall include—

''(1) a site that includes the catchment area of one or more military medical treatment facilities;

''(2) a site that is not located in the catchment area of a military medical treatment facility;

''(3) a site at which there is a military medical treatment facility that is a Medicare Subvention Demonstration project site under section 1896 of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

''(4) not more than one site for each TRICARE region.

''(d) TIME FOR DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct the demonstration project during three contract years under the Federal Employees Health Benefits program.

''(2) Eligible covered beneficiaries shall, as provided under the agreement pursuant to subsection (a), be permitted to enroll in the demonstration project during the open season for the year 2000 (conducted in the fall of 1999). The demonstration project shall terminate on December 31, 2002.

''(e) PROHIBITION AGAINST USE OF MTFS.—Eligible covered beneficiaries who participate in the demonstration project shall not be eligible to receive care at a military medical treatment facility.

''(f) TERM OF ENROLLMENT.—(1) The minimum period of enrollment in a Federal Employees Health Benefits plan under this section shall be three years.

''(2) A beneficiary who elects to enroll in such a plan, and who subsequently discontinues enrollment in the plan before the end of the period described in paragraph (1), shall not be eligible to reenroll in the plan.

''(3) An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change plans during the open enrollment period in the same manner as any other Federal Employees Health Benefits program beneficiary may change plans.

''(g) SEPARATE RISK POOLS; CHARGES.—(1) The Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for covered beneficiaries who enroll in such a plan in accordance with this section.

''(2) The Office shall determine total subscription charges for self only or for family coverage for covered beneficiaries who enroll in a health benefits plan under chapter 89 of title 5 in accordance with this section, which shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5 for administrative expenses and contingency reserves.

''(h) GOVERNMENT CONTRIBUTIONS.—The Secretary of Defense shall be responsible for the Government contribution for an eligible covered beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if the electing individual were an employee enrolled in the same health benefits plan and level of benefits.

''(i) EFFECT OF CANCELLATION.—The cancellation by a covered beneficiary of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project.

''(j) REPORT REQUIREMENTS.—(1) The Secretary of Defense and the Director of the Office of Personnel Management shall jointly submit to Congress a report containing the information described in paragraph (2)—

''(A) not later than the date that is 15 months after the date that the Secretary begins to implement the demonstration project; and

''(B) not later than the date that is 39 months after the date that the Secretary begins to implement the demonstration project.

''(2) The reports required by paragraph (1) shall include—

''(A) information on the number of eligible covered beneficiaries who opt to participate in the demonstration project;

''(B) an analysis of the percentage of eligible covered beneficiaries who participate in the demonstration project as compared to usage rates for similarly situated Federal retirees;

''(C) information on eligible covered beneficiaries who opt to participate in the demonstration project who did not have Medicare Part B coverage before opting to participate in the project;

''(D) an analysis of the enrollment rates and cost of health services provided to eligible covered beneficiaries who opt to participate in the demonstration project as compared with other enrollees in the Federal Employees Health Benefits Program under title 5, United States Code;

''(E) an analysis of how the demonstration project affects the accessibility of health care in military medical treatment facilities, and a description of any unintended effects on the treatment priorities in those facilities in the demonstration area;

''(F) an analysis of any problems experienced by the Department of Defense in managing the demonstration project;

''(G) a description of the effects of the demonstration project on medical readiness and training at military medical treatment facilities located in the demonstration area, and a description of the probable effects that making the project permanent would have on medical readiness and training;

''(H) an examination of the effects that the demonstration project, if made permanent, would be expected to have on the overall budget of the Department of Defense, the budget of the Office of Personnel and Management, and the budgets of individual military medical treatment facilities;

''(I) an analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to covered beneficiaries;

''(J) a description of any additional information that the Secretary of Defense or the Director of the Office of Personnel Management deem appropriate and that would assist Congress in determining the viability of expanding the project to all Medicare-eligible members of the uniformed services and their dependents; and

''(K) recommendations on whether covered beneficiaries—

''(i) should be given more than one chance to enroll in a Federal Employees Health Benefits plan under this section;

''(ii) should be eligible to enroll in such a plan only during the first year following the date that the covered beneficiary becomes eligible to receive hospital insurance benefits under title XVIII of the Social Security Act; or

''(iii) should be eligible to enroll in the plan only during the two-year period following the date on which the beneficiary first becomes eligible to enroll in a Federal Employees Health Benefits plan under this section.

''(k) COMPTROLLER GENERAL REPORT.—Not later than 39 months after the Secretary begins to implement the demonstration project, the Comptroller General shall submit to Congress a report examining the same criteria required to be examined under subsection (j)(2).''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1108. Health care coverage through Federal Employees Health Benefits program: demonstration project.''.

(b) CONFORMING AMENDMENTS.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8905—

(A) by redesignating subsections (d) through (f) as subsections (e) through (g), respectively; and

(B) by inserting after subsection (c) the following new subsection:

''(d) An individual whom the Secretary of Defense determines is an eligible covered beneficiary under subsection (b) of section 1108 of title 10 may enroll, as part of the demonstration project under such section, in a health benefits plan under this chapter in accordance with the agreement under subsection (a) of such section between the Secretary and the Office and applicable regulations under this chapter.'';

(2) in section 8906(b)—

(A) in paragraph (1), by striking ''paragraphs (2) and (3)'' and inserting in lieu thereof ''paragraphs (2), (3), and (4)''; and

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

''(4) In the case of individuals who enroll, as part of the demonstration project under section 1108 of title 10, in a health benefits plan in accordance with section 8905(d) of this title, the Government contribution shall be determined in accordance with section 1108(h) of title 10.''; and

(3) in section 8906(g)—

(A) in paragraph (1), by striking ''paragraph (2)'' and inserting in lieu thereof ''paragraphs (2) and (3)''; and

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

''(3) The Government contribution described in subsection (b)(4) for beneficiaries who enroll, as part of the demonstration project under section 1108 of title 10, in accordance with section 8905(d) of this title shall be paid as provided in section 1108(h) of title 10.''.

(c) DISPOSAL OF NATIONAL DEFENSE STOCKPILE MATERIALS TO OFFSET COSTS.—

(1) DISPOSAL REQUIRED.—Subject to paragraphs (2) and (3), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

(A) $89,000,000 during fiscal year 1999;

(B) $104,000,000 during fiscal year 2000;

(C) $95,000,000 during fiscal year 2001; and

(D) $72,000,000 during fiscal year 2002.

(2) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under paragraph (1)

may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Chromium Ferroally Low Carbons	92,000 short tons
Diamond Stones	3,000,000 carats
Palladium	1,227,831 troy ounces
Platinum	439,887 troy ounces

(3) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under paragraph (1) to the extent that the disposal will result in—

(A) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(B) avoidable loss to the United States.

(4) TREATMENT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under paragraph (1) shall be—

(A) deposited into the general fund of the Treasury; and

(B) used to offset the revenues that will be lost as a result of the implementation of the demonstration project under section 1108 of title 10, United States Code (as added by subsection (a)).

(5) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in paragraph (1) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials specified in the table in paragraph (2).

The CHAIRMAN pro tempore. Pursuant to House Resolution 441, the gentleman from Texas (Mr. THORNBERRY) and a Member opposed, the gentleman from California (Mr. THOMAS), each will control 20 minutes.

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

Mr. THORNBERRY. Mr. Chairman, I ask unanimous consent that 10 minutes of my time be yielded to the gentleman from Virginia (Mr. MORAN) and that he may be entitled to yield time.

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

There was no objection.

Mr. THORNBERRY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment is sponsored by the gentleman from Oklahoma (Mr. WATTS), the gentleman from Virginia (Mr. MORAN), and myself. I greatly appreciate their efforts as well as the efforts of the gentleman from South Carolina (Mr. SPENCE), the gentleman from Indiana (Mr. BUYER), the gentleman from Missouri (Mr. SKELTON), the gentleman from New York (Mr. SOLOMON), the gentleman from Florida (Mr. MICA) and the gentleman from Indiana (Mr. BURTON) of the Committee on Government Reform and Oversight, the gentleman from California (Mr. CUNNINGHAM), as well as others who have worked on this issue.

The problem is we promised free lifetime medical care to military retirees if they serve the country 20 years. The problem is, we cannot keep that promise. Particularly with base closings, with the declining military budgets, we are not providing that health care.

We have got situations in this country where bases are closing. We have got other situations where there are military treatment facilities that are too crowded and other situations where people are a long way from any sort of care.

This amendment takes us a step toward keeping our commitments. We already have a pilot for Medicare subvention, which is under way. This sets up a demonstration project to allow over-65-year-old military retirees to participate in FEHBP.

The bottom line to the amendment, Mr. Chairman, is that this program would allow military retirees the same respect as civilian Federal retirees get now. It would treat them the same way. Now they are treated worse.

The pilot project is limited in cost. It is limited as far as the number of people who can participate. It is limited in the number of sites that can participate. But I think the key thing is that it is most important for us to take some action today to show the military retirees that we are serious about keeping our commitments, but, equally important, to show those young active duty folks that we are serious about respecting their service to their country, risking their lives for our freedom, and that we intend to keep our commitments to them, because that is in serious doubt at this point.

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

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise reluctantly in opposition because, quite frankly, I am sympathetic with the concern, but I wish the gentleman who is the cosponsor of the amendment would appreciate the fact that this is an attempt to tap directly into the health insurance trust fund of Medicare.

The jurisdiction for the HI trust fund lies wholly within the Committee on Ways and Means. That is why, over the last several years, as chairman of the Subcommittee on Health from the Committee on Ways and Means, I have worked tirelessly to perfect a Department of Defense subvention program, which attempts to utilize military hospitals to provide the service for military retirees in conjunction with the Medicare trust fund. There are a number of safeguards that are contained in the Department of Defense subvention program that are missing from this program.

Shortly, perhaps immediately, the week that we come back, a bill will be on the floor providing a Veterans Administration subvention program. It will be a program for both the part A low-income service disabled veterans and for the so-called category C veterans who are not low income, nor do they have a service-related disability. That particular program has more than a dozen safeguards for the health insurance trust fund.

I am sorry that the subcommittee of jurisdiction was not involved in the crafting of this particular program, because, frankly, there are just a number of flaws in the bill. They do not just extend to a clear protection of the taxpayers in the HI trust fund, although, clearly, that is of some concern.

I would refer Members to a letter which was written in favor of this particular amendment by a group called The Military Coalition. Their concern is over the funding mechanism and the argument that the Congressional Budget Office believes that there will be an increased consumption of Medicare usage by these individuals.

This is not a new argument that we have had with the Congressional Budget Office. We had it over the DoD subvention program, the VA subvention program. Frankly, I tend to support the argument that, if they are already a Medicare eligible user, that they will not necessarily increase their Medicare usage.

The concern comes in the argument that says, ''Roughly 30 percent of all Medicare eligible military retirees have Medigap coverage right now. These are people that will switch to the FEHBP because it provides better coverage,'' that is the Federal Employees Health Benefit Program, ''at a lower cost than Medigap.''

This is a 3-year program. It is designed to terminate after 3 years. These people will give up their Medigap and take private dollars and substitute them for taxpayer dollars 75 cents out of every dollar.

In a moment, I will speak to the problems in the bill because these military retirees are not treated like any other Federal employee under the Federal Employee Health Benefit Program. They are treated entirely differently.

But let us take a look at this person who decides to get into this program, give up their Medigap, go under the

FEHBP, and, in 3 years, the program ends. They now will be forced to go back into the Medigap market, and they may, in fact, face that concern that all of us face in terms of trying to go back and buy insurance after you released it, and the potential of not being able to get the kind of insurance that they had prior to going into this program.

I would caution any military retiree who has Medigap insurance that I would be very, very careful of giving up my Medigap insurance to go into a program that has no guarantee that it would continue.

Let us take a look in an attempt, I assume, to control costs what this particular amendment actually does. It says military retirees will go into the Federal Employees Health Benefit Program, but they will not go in like every other Federal employee, including the retiree program. They have to create a separate risk pool for these people.

It means that, if they are in the separate risk pool, they are already Medicare eligible. They are above 65. They have gone through rigorous military duty. Their per-capita cost could be considerably higher.

But it says in another section of the amendment that the government's amount has to stay at the appropriate amount; that is the statistical average of 72 percent.

The argument that the amount for the Federal Employees Health Benefit Program will be exactly the same or lower than the Medigap, which is used as an argument in the letter in favor of it, is not necessarily true, because the amendment requires a separate risk pool to be developed for these individuals.

It is not clear what the complete role of the HI trust fund is. The argument is that it will be completely compensated.

Remember, the health insurance trust fund is a payroll tax fund paid into by individuals. The funding mechanism in this bill is selling assets of the Department of Defense, principally precious metals that are stored for strategic use. The selling off of those assets go into the general fund.

But the HI is a dedicated trust fund out of the payroll tax. There has to be a clear guarantee of transfer of funds to make sure that the HI trust fund is held harmless.

I can go on and on in terms of a series of flaws that are contained in this amendment which, as I said, I am sorry no one ever involved the committee of jurisdiction to make sure, one, that the HI trust fund was protected; two, that it was integrated properly and appropriately in the two other defense measures that we are working on in terms of people who serve their country, the Department of Defense TriCare subvention program and the Veterans Vision subvention program.

I would have to tell Members that this particular amendment is so fundamentally flawed that I am going to have to ask for a ''no'' vote on this amendment. I would very much like to sit down and see if there is not some way that we could correct these fundamental flaws.

But absent that, you may be exposing the HI trust fund; probably more insidious, you may be exposing these military retirees to a test program which will not allow them to get the Medigap coverage they had in the first place that they are giving up to go into this test program. It just does not make sense the way it is written.

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

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this amendment. At the outset of this debate, I first wanted to express my gratitude to the gentleman from South Carolina (Mr. SPENCE), chairman, and to the gentleman from Missouri (Mr. SKELTON), the ranking minority member, for their leadership on this issue and to Donna Hoffmeier, Mieke Eoyang of the Committee on National Security staff, and especially to Mike Brown of my staff for all the work that they have done to enable us to bring this amendment to the floor today.

This amendment establishes a demonstration project through which Medicare eligible military retirees will be able to join the Federal Employees Health Benefits Program.

We have taken the basic text of H.R. 1766, which is cosponsored by 284 Members of this body, and we have added one refinement after another until we have ensured that every concern has been addressed. As of this morning, every concern had been addressed that we have been told about.

Mr. THOMAS. Mr. Chairman, will the gentleman yield on my time?

Mr. MORAN of Virginia. Shortly.

Mr. THOMAS. On my time.

Mr. MORAN of Virginia. Sure.

Mr. THOMAS. I would not want to take the gentleman's time.

Mr. MORAN of Virginia. On his time, I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what is the provision that protects those military retirees who choose to give up their Medigap program to go into this 3-year test that they can go back to their original Medigap program without risk? Where is that guarantee in the amendment?

Mr. MORAN of Virginia. Mr. Chairman, if the gentleman will yield, I will tell the gentleman from California that the gentleman from California (Mr. STARK), who has also worked on this bill for some time and, as you know, serves with you on the Committee on Ways and Means, is going to address those issues.

Mr. THOMAS. Mr. Chairman, reclaiming my time briefly, I will tell you that the gentleman from California, to my knowledge, and of course he can speak for himself has not worked on this bill; that the Committee on Ways and Means and the Subcommittee on Health has not been involved in this bill at all.

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

Mr. MORAN of Virginia. Mr. Chairman, again, I yield myself such time as I may consume and tell the gentleman from California that CBO has looked at this, has determined that it would cost a maximum of $50 million. That assumes that military retirees will avail themselves of this opportunity and, in fact, will use Medicare to a somewhat greater extent than they do now.

Mr. Chairman, even though every enlisted service member was promised free quality lifetime health care as partial compensation for their service to their country, Medicare eligible military retirees are not provided adequate access to health care.

Free quality lifetime health care is no longer available to people once they become 65 years of age. They are precluded from participating in TriCare, they are prohibited from using Champus, and they are placed last on the priority list at military medical treatment facilities.

That is why we have this amendment. Federal civilian retirees and former Members of Congress in comparison have excellent health care. Civilian retirees are able to participate in the same health insurance program they enjoyed when they were active employees.

The Federal Government does not kick them out of their insurance program once they become eligible for Medicare. In fact, many of the plans provided for civilian employees provide greater coverage and more benefits to those who are Medicare eligible, because that is when they need health care the most, when they retire at 65.

We should correct this inequity in treatment between Federal retirees and military retirees by providing Medicare eligible military retirees the same options and the same insurance program as we provide Medicare eligible Federal retirees.

That is what this amendment does. It begins this process. It establishes a limited demonstration program that will allow 70,000 Medicare eligible military retirees the option to join the Federal Employee Health Benefits Program for 3 years. During that time, they have the same rights and benefits as their Federal civilian counterparts.

The amendment establishes separate risk pools to ensure that military retirees and Federal civilian beneficiaries do not cross-subsidize one another. Then it requires that DoD, the Office of Personnel Management, and GAO fully analyze the impact of this FEHBP option after the demonstration has ended.

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So we can then decide whether or not we want full national implementation based on complete factual information.

This is a bipartisan amendment. It is strongly supported by the Military Coalition, the National Military Veterans Alliance, the Retired Officers Association. Every major military association endorses this amendment.

I know the gentleman from California (Mr. THOMAS) is concerned about it. I am disappointed the gentleman is opposed to it. It is going to have some minor impact on Medicare, $50 million, but that means in addition to the $700 billion Medicare program that Medicare will spend over that 3 year period, $50 million might be spent by military retirees who are eligible for Medicare? We could save 10 times this amount annually if we change HCFA's billing system, for example.

The gentleman from Texas (Mr. THORNBERRY) and I will enter into a colloquy with the gentleman from California (Mr. STARK) promising to work with him to address the concerns of the gentleman from California (Mr. THOMAS). It is unfortunate the gentleman from California (Mr. THOMAS) cannot join us to work out these problems.

I urge my colleagues to vote in favor of this amendment and support military retirees health care when they need it the most.

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

Mr. MORAN of Virginia. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I am inclined to support the Watts-Moran-Thornberry amendment. I am a cosponsor of the legislation of the gentleman from Virginia (Mr. MORAN), which does roughly the same thing.

The amendment is revenue neutral. It does have an accounting problem as currently drafted. As drafted, the amendment would increase Medicare utilization undoubtedly as the retirees find it less expensive to seek medical care there.

As we all know, we have a long-term financing problem in the Medicare Trust Fund, and if we increase Medicare spending, it is essential that we keep the trust fund neutral.

This amendment needs an accounting fix to make sure that that money that the DOD raises gets into the Medicare Trust Fund and not into general revenues. It is my understanding that staff has not yet had time to work out the details of the language, and I am wondering if the gentleman from Texas (Mr. THORNBERRY) could give us a commitment to address this problem in conference?

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

Mr. MORAN of Virginia. I yield to the gentleman from Texas.

Mr. THORNBERRY. I thank the gentleman, and I thank the gentleman from California (Mr. STARK) for raising this concern.

Mr. Chairman, we have discussed this issue and completely agree it is appropriate to make sure that the Medicare trust funds are not negatively impacted by the amendment. The offsets included in this amendment do include CBO's estimated Medicare costs, and I assure the gentleman I will certainly work with the gentleman from South Carolina (Mr. SPENCE), the gentleman from Missouri (Mr. SKELTON), the gentleman from Indiana (Mr. BUYER) and others in the weeks ahead to clarify that the legislative language addresses those concerns and that there are appropriate offsets, in addition to the protections that are needed on the concern that the gentleman from California (Mr. THOMAS) has raised.

Mr. MORAN of Virginia. Mr. Chairman, reclaiming my time, we look forward it addressing this concern in conference.

Mr. STARK. Mr. Chairman, if the gentleman will yield further, I thank the authors of the amendment. I think you have a winner. I would suggest that if anybody is concerned, that you do not extend it at the end of three years. In the balanced budget amendment we made it the law that people had to be able to get the Medigap policy back. So if in the third year we decide the experiment will not work, we can write that into law and see that no one is disadvantaged by losing the Medigap policy.

Mr. MORAN of Virginia. It sounds like a good solution.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may concern.

Mr. Chairman, notwithstanding the attempted agreement that was just made, which is clearly a concern in terms of the trust funds, but what I just heard was that the military retirees who give up their Medigap program and who may not in fact be able to get insurance, we will worry about them three years later when the demonstration program ends.

I would tell the gentleman, if that is the way you are going to treat military retirees, then I can fully understand why you have some concern about the DOD program which we are now working on. You may have some concern about the VA program. But in every one of those programs that we worked with, that we sat down and made sure were done correctly, the military retirees were protected from day one.

What you just heard, Mr. Chairman, was the hope that three years later, if this demonstration program does not work, those military retirees who gave up their Medigap insurance, we will see if we can pass a piece of legislation that will fix that problem. I cannot believe that the dialogue that just took place was concerned about the HI trust fund alone and showed no concern whatsoever for the military retirees that are the guinea pigs in this program.

Had you sat down with the committee of jurisdiction, we would have worked that out to make sure that the military retirees were protected. This is just another example of what the gentleman from Virginia said was a well-crafted amendment, which leaves every one of those up to 70,000 military retirees who are asked to participate in this program at risk on their Medigap program. I do not believe the House is willing to vote on that kind of a risk for our military retirees.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Let me just tell the gentleman, we have been working on this for four years. I can verify to you that I introduced this five years ago. Now, we have 284 cosponsors. We want to work with the gentleman. We did everything we could to work it out in conference.

Mr. THOMAS. Reclaiming my time, did the gentleman or the gentleman's staff ever call the Subcommittee on Health of the Committee on Ways and Means? The answer is if you did everything you could to work it out, it seems to me the subcommittee of jurisdiction, which has worked on the balanced budget amendment for the DOD subvention, which has worked with the Committee on Veterans Affairs on the VA subvention program, and which is currently working in the Medicare Commission to make sure that those individuals who served time in the military, and especially were in theaters of combat, are taken care of.

The gentleman continues to give this blanket assurance that everything has been done. I simply continue to repeat, you never once worked with the subcommittee of jurisdiction. I believe that is one of the reasons that all these flaws are in the amendment.

We have taken care of it in every other area that we have worked with combining Department of Defense and veterans interests with Medicare. They are not in this amendment. It is flawed.

If someone would indicate that we could sit down and resolve the flaws in the amendment, then I am far more interested in going forward. What I heard as a resolution for those individuals who are going to give up their Medigap is that three years from now, when this demonstration ends, maybe we can pass a law that will give them a chance to get their Medigap back.

I do not think that is a very comfortable assurance for military retirees. I certainly would not want to gamble my program to go into a program that may end on the assurance that this Congress, three or four years down the road, is going to be able to make sure I get back the insurance I lost when I started this experiment. That is not a solid guarantee, and that is what this amendment says, and that is what was just discussed on the floor.

Mr. MORAN of Virginia. Mr. Chairman, if the gentleman will yield further, we have invited the Committee on Ways and Means staff to meetings. Let me say, the Parliamentarian did not refer this to the Committee on Ways and Means as the committee of jurisdiction. So we worked with the Subcommittee on Civil Service within

the Committee on Government Operations, and we worked with the Committee on National Security, because they were referred to us as the committee of jurisdiction.

We are only talking about one line in this bill among many lines, and I think we can work that out in conference.

Mr. THOMAS. Mr. Chairman, reclaiming my time, perhaps the gentleman did not hear me. The one line you continue to refer to is the transfer of funds from the endangered HI trust fund, which is scheduled to go bankrupt in a short number of years. That is why we have the Medicare Commission, to protect those funds.

What I have continued to refer to is the requirement and in fact the argument that is made by the military coalition, that these military retirees are going to give up their Medigap insurance to get into the program. Because certainly they are not going to pay out of pocket their own private dollars for a Medigap program, when in fact the taxpayers are going to pay 75 cents out of every dollar to put them into the FEHBP program.

So you have the HI trust fund paying for the Medicare, and 75 cents out of every dollar of taxpayers money, the employer, to the retired military being paid in the FEHBP. They are giving up their private sector dollars, the Medigap dollars, to get this.

But it is a demonstration program. It is only for three years. Why could you not write into the program a protection for these military retirees? It is not the one line you are talking about, which is the HI trust fund. It is the guarantee that you do not lose any more than the insurance that you had when you went into the program. That is one of the fundamental flaws of this amendment.

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

Mr. THORNBERRY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, there are two important points in response to the concerns of the gentleman from California (Mr. THOMAS). Number one is I think all of us admire the protections that he has worked on in the Medicare subvention pilot program and want to work with him to see appropriate protections are included in this bill.

Secondly, before the Subcommittee on Personnel marked up, we were aware that the Committee Ways and Means were interested in this issue, and I have been informed as a matter of fact that the Committee on Ways and Means staff was invited to a meeting on Monday, May 4, 1998, at 11:30 a.m., and they did not show up. Included in that meeting were representatives of the Committee on Government Reform and Oversight, CBO and others.

Mr. Chairman, I yield two minutes to the sponsor of the amendment, the gentleman from Oklahoma (Mr. WATTS).

Mr. WATTS of Oklahoma. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, I rise in support of the Watts-Thornberry-Moran amendment to H.R. 3616 that the Parliamentarian has cleared and that the Committee on Rules has ruled in order. This amendment is to the defense authorization bill for fiscal year 1999.

Just for the record, I have got a long list of support letters here from the American Military Retirees Association, the American Retirees, Korean War Veterans Association, the National Association of Uniform Services, the Veterans of Foreign Wars, and the list goes on and on.

This amendment is an important key to improving the delivery of high quality health care to our military retirees and their dependents. No one deserves the option of enrolling in the Federal Employees Health Benefits Program more than these good Americans.

For decades our government promised millions of people who served in the Armed Forces free lifetime health care for themselves and their dependents if they served for 20 or more years. They earned that benefit, yet we all know that the promise was broken and never fixed.

As a result, we face a situation wherein thousands of military retirees are forced to scramble for adequate health care for themselves and their dependents. Many must make do with the TriCare system or space available care in a rapidly diminishing number of military hospitals.

If they are 65 years old or older, they must use the Medicare system. Those who live far from military treatment facilities or hospitals except TriCare often purchase private medical insurance or simply remain uncovered.

The Watts-Thornberry-Moran amendment, again, is an optional program that would begin to restore that promise of health care for this group by enrolling a limited number of Medicare eligible military retirees in the FEHBP program at a number of sights around the country.

Mr. Chairman, the Watts-Thornberry-Moran amendment is but a small optional step, and I encourage Members to support it.

Mr. MORAN of Virginia. Mr. Chairman, I yield one minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Watts-Moran-Thornberry amendment. For almost three years now, I have worked with the gentleman from Virginia (Mr. MORAN) and others on this critical issue of providing quality lifetime health care to military retirees.

I want to thank the gentlemen from Virginia, Oklahoma and Texas for the opportunity to urge all of our Members to support this amendment, which will demonstrate a way to give the Medicare eligible retirees the option of participating in the Federal Employee Health Benefit Program. I am assured that the gentleman from California (Mr. THOMAS) is going to find a way to make this acceptable in the Committee on Ways and Means as well.

On the eve of Memorial Day, it seems not only the appropriate time, but it also is the honorable time to keep our promise to the military retirees that we would provide them health care.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Medigap is a wraparound insurance program. There are ten standardized Medigap programs that are made available by HCFA. The argument is that these military retirees will be giving up their Medigap insurance.

Now, I know as you begin to talk about how this program is supposed to fit together, some eyes begin to glaze over, and all you are supposed to do is just say, it ought to be done, and therefore it is done.

Well, I will tell you, in trying to work with the DOD subvention program, and now successfully with the VA, if you are really interested in looking out after the interests of these military retirees, you had better have in writing exactly what is going to occur. The Federal Employees Health Benefit Program does not match up to any of the Medigap programs.

What are the policies? What are the premiums? You are creating a structure which creates a separate risk pool. The premiums may be outrageous. You have no protections for the military retirees in that regard.

On page 4 of the amendment, line 11 through 14, if you agree to go into this program, what do you agree to do? You agree eligible covered beneficiaries who participate in the demonstration project shall not be eligible to receive care at a military medical treatment facility.

Under the DOD subvention program, we try to blend the military medical facilities with the HI program. What you do in this is you are a military retiree, you are used to going to a military facility, and, now, if you enter into this program, you become an FEHBP member, not knowing what your premium is going to be, because you are going to be in a separate risk pool, not knowing what the benefits are going to be in terms of an augmentation, and you get your Medicare money, which you also have been utilizing perhaps in conjunction with the military medical facility, but you are denied going to the military medical facility if you become part of this program.

□ 1615

You have to find an entirely different health care delivery structure, maybe somewhere else if you live by a military reservation which you have been going to.

These are the kinds of things in reading this bill and in analyzing it as we did with the DOD subvention and with the VA subvention that simply jump

out at us. There are very many flaws in this bill. Why are we trying to rush this forward without putting it together in a way the military retiree has some comfort? Is it absolutely necessary to tell them that if you enter this program for your own benefit, you have to give up military medical facilities completely, you can never go back?

A lot of times in today's health care system people are saying, I want to be able to choose my own doctor. What this demonstration program says is you have to give up the doctor you had or you cannot get in the program. That makes no sense. But after all, you have X number of cosponsors, you have X number of people whose heart is certainly in it, and my heart is in it, and the reason I am up here today is to tell my colleagues we have to put our heads in it as well as our hearts, and it is not impossible to work these out, but if we are going to move forward and simply say all of these are going to be resolved, unfortunately the end result will be a 3-year program which will fail. If we want a successful program, we ought to sit down and work out these difficulties, we will have a higher chance of succeeding, and perhaps my admonitions will go unheeded, and I am sorry, because it will be the military retirees who will have suffered.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I was waiting for the gentleman to catch his breath.

Mr. THOMAS. Mr. Chairman, reclaiming my time, when I feel strongly about an issue and I believe that folks are not being treated fairly, I do get impassioned.

Mr. MORAN of Virginia. Mr. Chairman, I am very much impressed, and I appreciate the gentleman bringing up these issues.

What I wanted to say to the gentleman, though, we have talked with the insurance companies. The fact is that with a separate risk pool, given the fact that these people are eligible for Medicare, Medicare is a payer of first resort, the insurance premiums are not going to be exorbitant as the gentleman has suggested, they are going to be quite affordable.

Mr. THOMAS. Mr. Chairman, reclaiming my time, I would inquire of the gentleman, under the current program with military retirees, is Medicare A the first payer?

Mr. MORAN of Virginia. Mr. Chairman, if the gentleman will yield further, if one goes to a military treatment facility, it is not the first payer, but for many, there is about 70 percent of military retirees.

Mr. THOMAS. Mr. Chairman, again reclaiming my time, so for the military retirees who use a military facility, that currently is the first payer, but they are denied the ability to go there; if they enter into this demonstration program, they are forced to find medical services elsewhere if they want to go in the program.

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

Mr. THORNBERRY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, the rush is that World War II veterans, the average age is 72 years of age. They are not going to be around. The Thomas-Stump bill I applaud for what they are trying to do. We are both trying to do the same thing to help veterans.

But the Moran bill, the original Moran-Bond bill was limited, it only had two sites. The Thornberry-Watts-Cunningham bill put in $1.5 billion to a full program. That is what we need to do. This is a compromise between the 2 bills. Subvention does not give them enough care; it is a Band-Aid. They do not have access to TriCare. But I ask my colleagues to support this, and I look forward to working with the gentleman from California (Mr. THOMAS) because he is trying to do the same thing we are.

The CHAIRMAN pro tempore (Mr. PEASE). The Committee will rise informally.

The SPEAKER pro tempore (Mr. MICA) assumed the chair.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 98. Concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The SPEAKER pro tempore. The Committee will resume its sitting.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Committee resumed its sitting.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the Moran-Thornberry amendment.

I sat on the Subcommittee on Civil Service, and I have a full appreciation, because I heard the quagmire of technical problems associated with ensuring medical care for Medicare-eligible veterans. There are risks associated with being a part of any control group. I do not for a moment believe that this body is going to leave any veterans who decide to go into this program in a lurch at the end of the period.

I do think it is unthinkable to let this gap in health care for these veterans to go on any longer. I do think this is Congress at its best. We did not know what to do after we heard this testimony. We said let us do a demonstration project and learn from it; that will allow us to know whether we spread it or change it or fix it.

Moreover, these are the first people to be allowed into the FEHBP program other than the traditional clients programs. I think we will learn something about FEHBP as well, and I think the people to learn it from are veterans who have been left out of their full right to medical care.

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana (Mr. BUYER), chairman of the Subcommittee on Military Personnel.

Mr. BUYER. Mr. Chairman, I would like everyone to recognize, this has been one of the consequences of base closures. Many of the retirees, they located next to these military treatment facilities and now that the bases have closed, they are unwilling to move, and they do not want to move. They are stationed where they are. So we are dealing with some cleanup work to do from base closures, and that is what this is about.

I want to recognize the gentleman from California (Mr. THOMAS) on the Subcommittee on Military Personnel whose letter we received, we made it a part of the RECORD; not only the gentleman from California (Mr. THOMAS), but the gentleman from Texas (Mr. ARCHER), so we are well aware of their objections.

We recognize that the Committee on Commerce and the Committee on Ways and Means were not committees of jurisdiction on this, but what I want to say to the gentleman is that invitations were sent out, there were meetings with CBO and the Committee on the Budget and the Committee on Government Reform and Oversight, and the Committee on National Security on this. The gentleman has raised some very interesting points here today, and what I would like to do between now and conference is for us to work together on this as we move toward a demonstration.

I also want to compliment the gentleman from Virginia (Mr. MORAN) and the gentleman from Oklahoma (Mr. WATTS) and the gentleman from Texas (Mr. THORNBERRY). I appreciate them accepting that one of these sites should also be one of the Medicare subvention sites so we completely understand what we are doing, and I am glad we are not moving to the total phase-in, but only a limited pilot.

Mr. MORAN of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Chairman, I rise in strong support of this amendment and would like to commend my colleagues, the gentleman from Oklahoma (Mr. WATTS) and the gentleman from Virginia (Mr. MORAN) for their leadership in this area.

As a Member of the House Committee on Veterans' Affairs and a representative from Florida, I am very concerned

with the state of military health care, particularly since so many Floridians are being affected. I have received the letters and the personal visits by military retirees who are concerned about their health care options.

The health care industry is in change and we in Congress need to take some leadership. I support this pilot program 100 percent, and I urge a ''yes'' on this amendment.

As Memorial Day approaches, let us show our military personnel that we do care and that we as Members of the United States Congress do keep our promises to the veterans.

The CHAIRMAN pro tempore. All time of the gentleman from Virginia (Mr. MORAN) has expired.

Mr. THORNBERRY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Chairman, I rise in support of the Thornberry-Watts-Cunningham amendment.

Mr. Chairman. Because the need for expanded health care for military retirees is so important, I am pleased to join with my colleagues, Representatives WATTS, THORNBERRY and MORAN in their efforts to permit Medicare-eligible retired members of the Armed Forces and their Medicare-eligible dependents to enroll in the Federal Employees Health Benefits program (FEHBP).

This amendment proposes a three-year demonstration project at six to ten sites in the United States. The cost is offset by the sale of national defense stockpile materials.

We made a commitment to those who chose to serve in defense of our country. Military retirees were promised health care for life. However, there is a Catch–22 situation for Medicare-eligible retired military because once they either turn age 65 or qualify for disability treatment, they lose their CHAMPUS benefits. Unfortunately, they are placed last on the priority for treatment at Military Treatment Facilities, and they are prevented from participating in the new TRICARE program.

Of the 1.2 million military beneficiaries 65 or older who are Medicare eligible, approximately 324,000 receive ''space available'' care in military treatment facilities.

I want to address the FEHBP Program as a complement to military health care. The FEHBP has been successfully operating over the past thirty years at about one-third of the cost incurred in other private health insurance programs.

Under the FEHBP, a consumer could opt to buy coverage that would include fee-for-service, HMO, PPO, or a union sponsored plan similar to the postal workers, etc.

In order to ensure that our military have the same choice of plans now available to U.S. Senators and Representatives, the President and Vice President, and over ten million federal workers, I urge passage of this amendment that would offer our nation's military and veterans the same basic benefits that we here in Congress have available to us.

This amendment has been endorsed by The Retired Enlisted Association (TREA) and the National Association for Uniformed Services (NAUS). I agree with these groups and believe we must fulfill our commitment to our nation's military retirees and veterans.

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Civil Service who has also been a leader in this effort.

Mr. MICA. Mr. Chairman, as chairman of the House Subcommittee on Civil Service, I have worked with the amendment sponsors to make our military retirees eligible for our Federal Employees Health Benefit Program.

While this amendment does not cover dependents and active military and retirees under age 65, which I have advocated, I strongly support this amendment.

This is a reasonable start with a 3-year demonstration project limited to 70,000 individuals. With base closures and military downsizing, our health care system for our military and our retirees has broken down. TriCare has been described to me as try-to-get-care.

As we approach Memorial Day, as we have heard said on the other side, we must remember those who have died in service to our country. How sad it would be if we abandon those who survived and those who have served us on this occasion. This amendment, my colleagues, only allows military retirees over 65 and surviving dependents and those who died in active duty to be eligible for the same benefits as Members of Congress.

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

Mr. Chairman, I rise in support of the amendment. I would like to commend the sponsors for their efforts to fulfill the promise made to military personnel. Since the Second World War, recruits were offered ''free health care for life'' at a military hospital if they served a 20-year career in the military. These promises were made when the ratio of active duty personnel to military retirees was much greater. However, as we have drawn down the force, base closures, reductions in medical personnel and budget cuts have diminished this health care for retirees, forcing them to rely on Medicare. This amendment will test the FEHBP option for those with the greatest need to improve the viability of the program.

Many of us are worried about the potential costs of this legislation, both to the Defense Department and to the beneficiaries. The Department had predicted that the costs of implementing this program would further reduce the space of available care. I am pleased to note that this proposal would not harm Defense health care program's budget, and it is funded by stockpile sales.

I take this moment to commend the gentleman from Virginia and the other cosponsors for their dedication to this issue.

Mr. Chairman, at this time I wish to make an inquiry of the gentlewoman from Texas (Ms. JACKSON-LEE).

I would like to ask if the gentlewoman supports this amendment, and if so, why?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member for his leadership. I thank the gentleman from Virginia (Mr. MORAN) and the gentleman from Oklahoma (Mr. WATTS) for their amendment.

I absolutely do support this amendment. I think just a few days away from celebrating our veterans and our men and women in the military that we need to honor our military veterans. This amendment will not impact military readiness and it will not be offset by cuts in discretionary defense funds, but this amendment would ensure that every Medicare-eligible retiree is covered and provided health insurance and would allow Medicare eligible military retirees the option to join the Federal Employees Health Benefits Program through a 3-year demonstration project.

I would simply say that what this does is it answers the questions of all of my veterans, when I go home to my district, asking me about their medical program and how they cannot be in this retiree program.

So I simply say that this is a good amendment supported by the National Military and Veterans Alliance and every major military association. We must also show our support for our military retirees. It is a good amendment, a strong amendment, and the right thing to do.

I strongly support my colleagues' amendment concerning enrolling military retirees in the Federal Employees Health Benefits program.

Currently America's military men and women are denied free accessible and quality health care after they have retired from their dedicated service in the U.S. military.

We should honor our military veterans and we should be committed to ensure that the men and women who fight for and protect our country receive adequate health care. However, in our country, retirees from the military do not receive the same benefits as Federal employees.

This amendment would not impact military readiness and will not be offset by cuts in discretionary defense programs. But, this amendment would ensure that every Medicare eligible retiree is covered and provided health insurance, and will allow Medicare eligible military retirees the option to join the Federal Employees Health Benefits program through a limited 3 year demonstration project.

This amendment is supported by the national military and veterans alliance and every major military association. We must also show our support for our military retirees.

Mr. SKELTON. Mr. Chairman, I thank the gentlewoman for her answer to my inquiry.

I think it is very important that we do follow through on this program to see how it works, because we must do our very best in our committee and in this Congress to fulfill that promise made to military personnel, not just for those who it will affect directly, but to those future soldiers and retirees that we wish to keep the faith with.

□ 1630

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Florida (Mrs. FOWLER), a member of the committee.

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

Mrs. FOWLER. Mr. Chairman, I rise in support of this amendment.

It is common knowledge that many military retirees were promised access to free health care for life. All this amendment does is give military retirees a chance to participate in the same plan that every Federal employee has.

By providing more choices, the FEHBP uses market forces to control costs and ensure high quality. Military retirees should have these choices. This amendment merely provides for a demonstration project. Coupled with the subvention demonstration project that we passed in the Balanced Budget Act, this will provide some insights on how we can correct the current system.

This amendment does not fulfill the promise of free health care for life, but it is a step in the right direction. I urge my colleagues to support this amendment.

Mr. THORNBERRY. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. RYUN), a member of the subcommittee.

Mr. RYUN. Mr. Chairman, I rise in strong support of this particular amendment.

I know that some of my colleagues oppose this amendment. However, as a member of the subcommittee, I have heard the testimony and I have met with retirees who face a real medical problem. As military installations are closed and downsized, our military retirees are being shut out.

This amendment is a small step forward, keeping the promises that we have made to our military many years ago.

Mr. THORNBERRY. Mr. Chairman, I yield 30 seconds to the gentlewoman from Washington (Mrs. LINDA SMITH).

Mrs. LINDA SMITH of Washington. Mr. Chairman, this is simply about keeping our word. I have no answer when retirees ask me, why when I reenlisted and they promised me lifetime health care, can I not get it? There is no excuse for not keeping our word; and this is a beginning, just a beginning, to do that.

Mr. THORNBERRY. Mr. Chairman, I yield 30 seconds to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise in strong support of this amendment, Mr. Chairman. I think, as exactly as the gentlewoman from Washington (Mrs. SMITH) said, it is about keeping our word. This amendment does not keep our word, but it is a step in the right direction. It is a step in doing what we ought to do. We need to look harder for the resources necessary to do exactly what we told veterans we were going to do.

Mr. Chairman, I urge strong support of this amendment.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, obviously, what is at debate here is whether or not this program, the way it is currently constructed, is one which has a maximum chance of retaining viability.

One of our colleagues, I believe, got a little carried away in her eloquence and indicated that this was going to be available for every eligible retiree. It is not. It is a very limited program, 70,000. The gentleman from Virginia said it really exposed the trust fund to $50 million. That is correct. But it is a $327 million CBO estimate cost over 3 years, 70,000 retirees, $327 million. It also has no permanent transition.

One of the things we tried to do in the DOD subvention and that Members will see we are doing in the VA subvention is to say that if it is, in fact, successful, this is what occurs as a follow-up.

What we have here is an amendment that started out at more than $3 billion. In an attempt to get costs under control, although we were not able to work, and I would like to make one brief allusion to the May 4 meeting. That was the one meeting that was held. It was a late Friday night phone call, and my staff was unable to work because they were working on the VA subvention. They did a follow-up on Monday, and that was their only opportunity to try to have some input.

All of us want to help our military retirees and our veterans. We have two solid subvention programs going forward with all kinds of guarantees for the retirees and, if the program is a success, its ability to continue forward.

What we have here, I am sorry to say, is kind of a jerry-rigged program funded out of asset sales for 3 years in which there are a number of questions in terms of the way in which the program blends for the retirees, and it almost guarantees its failure.

What I have been trying to do is to get people to understand that, if we make certain changes in this, if we can sit down and get it to conform more to the kinds of underlying structures we had in the subvention bill, what all of us seem to want, which myself, the gentleman from California wants, is a successful program.

This program as it is currently constructed is doomed to fail. That is not the way we should go forward in terms of our military retirees. We should make the kinds of changes that enhance the chance of this program succeeding. It has fundamental flaws. Obviously, with the number of people who feel the pressure nearing Memorial Day, this measure is going to pass. I hope someone sits down and corrects the flaws. The military retirees deserve better than this amendment.

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

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

Mr. SPENCE. Mr. Chairman, I rise in strong support of the Watts-Moran-Thornberry amendment. Our government is not doing an adequate job of fulfilling the promise of lifetime health care that was made to those who have made a career in our military.

With budget cuts, reductions in military medical personnel, and base closures, access to quality care within the military health care system has become especially difficult for military retirees who are eligible for Medicare.

While Medicare-eligible retirees and their families remain eligible for space-available care in military hospitals, they are not eligible to participate in the Department of Defense Tricare program, and Tricare is reducing the amount of space-available care accessible to those beneficiaries.

As a result, many of these retirees are discovering that the health care benefit they earned through their dedicated service in the military may not be available when they need it most. We need to find a cost-effective way to meet the health care needs of these military retirees, and to fulfill the promise of lifetime health care that was made to them. This amendment is a step in that right direction.

The amendment would allow up to 70,000 Medicare-eligible military retirees in several sites across the country to enroll in the Federal Employees Health Benefits Program, and to receive the same health care benefits as Federal employees and Federal retirees. It has been carefully designed to establish a demonstration program that is large enough to provide for a valid test of this concept, yet keeps annual costs to a reasonable level over the course of the 3-year demonstration. The costs have been offset in full.

I want to commend my colleagues on the Committee on National Security, the gentleman from Texas (Mr. THORNBERRY), the gentleman from Oklahoma (Mr. WATTS), as well as the gentleman from Virginia (Mr. MORAN) for their dedicated efforts on behalf of our military retirees, on behalf of this amendment. They have worked tirelessly to develop a good demonstration program that will help us to begin to restore faith, not only with those who served in the military as a career, but those who will continue to serve to date.

I also want to commend the gentleman from Florida (Mr. MICA) for his longstanding support of improving health care for our military retirees, and the gentleman from California (Mr. THOMAS) for his contribution.

Mr. Chairman, I urge support for this bipartisan amendment.

Mr. WELDON of Florida. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me the time. I want to just share with my colleagues here, Mr. Chairman, when I was in the Army Medical Corps, every month at the end of the

month my Secretary would bring me a stack of patients who were unable to get in to see me for an appointment, because we were too busy. We did not have enough doctors in the clinic.

I would go through that stack and I would be able to see which ones were going to end up in the emergency room. I did not like it. I did not like it at all, but at least I knew the emergency room was there when they got sick.

Now, today, we have closed the emergency room to them, or we have closed the whole facility. We have turned our back on these people, Mr. Chairman. I encourage everybody to vote in support of this amendment. If this is a flawed amendment, I say vote for it and let us fix it in conference, and let us move the process along.

When people say, we were not promised medical care when we retired, do not believe that. Everybody said that. I spent 6 years on active duty. We heard it all the time, do your 20 and you will get health care when you retire. We have turned our backs on these people.

I commend all my colleagues for bringing this to the floor, and I encourage everybody to vote in support of this.

Mr. INGLIS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from South Carolina.

Mr. INGLIS of South Carolina. Mr. Chairman, I thank the gentleman for yielding to me.

I rise in support of this amendment, Mr. Chairman, and thank all those the gentleman has just mentioned for their good work on this.

I believe it is important for us to realize it is not just a matter of keeping faith with our military retirees, it is also a matter of military readiness, because what I am hearing all around my State is that people who are on active duty now are telling their family members, do not re-up, do not reenlist. The military, the United States government, will not honor its commitments.

So it becomes not just a matter of keeping faith with those who have gone before, but rather, with the military readiness of this Nation. So it is essential, I believe, that we in this Congress rise to the occasion of backing up our commitments to those retirees, not just so we can keep faith with them, but so we can keep faith with this Nation in providing for military readiness.

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

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

Mr. FARR of California. Mr. Chairman, as the largest base closure in the United States, we need this bill.

(Mr. FARR of California asked and was given permission to revise and extend his remarks.)

Mr. FARR of California. Mr. Chairman, I rise today to express my strong support for the Moran-Watts-Thornberry amendment to the Fiscal Year 1999 Defense Authorization Act, which would create a demonstration project for military retirees to enroll in the Federal Employees Health Benefits Program (FEHBP).

Guaranteeing health care for our nation's military retirees should be one of our nation's top priorities. Yet millions of military retirees are prohibited from receiving Department of Defense health care because they have passed the age of 65 and are eligible for Medicare. As a result, Americans who served in our nation's defense are denied the health care they have more than earned as a result of their sacrifices to our nation.

In my own district, thousands of these retirees—individuals who dedicated many years of their lives to the military—are now without military health care. Denied CHAMPUS or TRICARE, and put last on priority lists for care at Military Treatment Facilities, these brave men and women have an increasingly difficult time obtaining the health care they need. This, Mr. Chairman, is simply unfair.

The amendment before us provides a solution to the problem. It establishes a three-year demonstration project in which up to 70,000 Medicare-eligible military retirees would be permitted to enroll in FEHBP at six test sites. The amendment would also allow dependents of these retirees to be eligible for FEHBP, as well as widows of those who died while on active duty for more than thirty days.

Passage of this amendment will allow military retirees and their immediate families to continue to obtain cost-effective health care from the federal government after the age of 65. It is a fair and flexible solution that will help ensure that these brave and dedicated Americans will not have to worry about obtaining the health care they need and deserve.

Mr. Chairman, next week we celebrate Memorial Day. I cannot think of a more appropriate time in which to act on behalf of our nation's military retirees. Let's pass this amendment today.

Mr. THORNBERRY. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. THORNBERRY) is recognized for 30 seconds.

Mr. THORNBERRY. Mr. Chairman, I appreciate the gentleman from California (Chairman THOMAS) and his willingness to work with us to make sure that the protections that need to be in this provision are there as we move toward the conference. I think he is right, and I think that is important.

I also believe that it is morally wrong, not to mention detrimental to our country's security, not to treat military retirees at least as well as we treat civilian Federal retirees.

This amendment starts to fix that, and regardless of the other difficulties that have to be overcome, it is the right thing to do. This House ought to pass it.

Mr. NORWOOD. Mr. Chairman, I rise in support of the Watts amendment because I feel it is imperative that Congress do its best to rectify the injustice done to military retirees who were promised, but have not received, the guarantee of lifetime medical care.

Uncle Sam misled America's finest when he recruited them to the military. Therefore, while this amendment does not restore the entire promise, it does provide military retirees over the age of 65 with affordable, accessible, high-quality health care by allowing them to join the Federal Employee Health Benefit Program. Congress has access to FEHBP, Mr. Chairman, so why shouldn't our nation's military retirees?

The Watts amendment is a step in the right direction—a move toward partially restoring the quality of healthcare at an affordable price that these retirees were promised upon entering the military. We owe them no less!

Mr. ACKERMAN. Mr. Chairman, I rise to express my strong support for the Watts, Moran, Thornberry Amendment to the Defense Authorization Bill. For too long, our nation's military retirees have been denied access to the Federal Employees Health Benefits Plan (FEHBP) even though they have devoted their entire lives to the defense and security of our nation. Most of these individuals entered the military on the premise that they would be entitled to comprehensive, quality health care for the rest of their lives. Unfortunately, our nation has not lived up to this important commitment.

This amendment would create a demonstration program that would enroll 70,000 Medicare eligible members or former members of the armed forces into the FEHBP. The program would be available in six sites around the country. At the end of the project, the Secretary of Defense, and the Director of the Office of Personnel Management will analyze whether or not the demonstration yielded its intended results.

Throughout my tenure is Congress, I have often spoken out in behalf of using the FEHBP to cover the underinsured and the uninsured. The FEHBP is financially sound and in most states, the program provides at least three quality benefit plans for its members. This the least we can do for our armed forces who have stood up to protect the rights and freedoms that we all cherish today. After a long fight, we have taken the first step toward providing comprehensive coverage for such brave and selfless individuals. It is my hope that this provision will remain in the conference report and will be signed into law by the President in the most timely manner possible. Our armed forces deserve nothing less.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in support of the amendment offered by Congressmen WATTS, MORAN and THORNBERRY to allow military retirees who are eligible to join Medicare to enroll in the Federal Employees Health Benefits Program (FEHBP).

Mr. Chairman, under this amendment, the Department of Defense would be allowed, on a trial basis, to give 70,000 military retirees, their eligible dependents, and certain ''Gold Star Widows'' the option of enrolling in the FEHBP program.

For too long, the men and women who have served our nation in the armed forces have not been afforded access to the same health care programs that other federal retirees are eligible to join. For the first time, under the provisions of this amendment, they will be offered the choice of enrolling in the FEHBP program for their health care services. These are individuals who are not eligible for TRICARE, which serves active duty and under-65 military retirees.

Our military retirees should have the same quality of health care coverage as other federal retirees, and should pay equitable premiums for that coverage.

Mr. Chairman, this amendment is supported by numerous veterans organizations, including

the Veterans of Foreign Wars, and I want to add my support for the Watts/Moran/Thornberry Amendment. It is a first step toward providing our military retirees with needed, affordable health care coverage.

Mr. DAVIS of Virginia. Mr. Chairman, I rise today in support of this amendment offered by my colleagues, Representatives J.C. WATTS (R–OK), JIM MORAN (D–VA), and WILLIAM ''MAC'' THORNBERRY (R–TX) that will help provide a portion of the military retiree community with affordable, accessible, high-quality health care by allowing them to join the Federal Employee Health Benefits Program (FEHBP). This amendment authorizes the Department of Defense (DoD) to conduct a demonstration program to enroll Medicare-eligible military retirees in the (FEHBP). The cost of the demonstration program is offset by the sale of the National Defense Stockpile materials. Furthermore, this demonstration project features a three-year program located at 6–10 sites around the nation. It will provide coverage for Medicare eligible military retirees (age 65 and above). This amendment will also cap costs at $100 million per year.

Mr. Chairman, although adoption of this amendment falls far short of our original commitments to our veterans. I believe that the passage of this amendment will bring a step closer the promise of lifetime health care made to career military and retirees is kept and I urge all of my colleagues to support the passage of this amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. THORNBERRY).

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

RECORDED VOTE

Mr. MORAN of Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 1, answered ''present'' 1, not voting 11, as follows:

[Roll No. 178]

AYES—420

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—1

Thomas

ANSWERED ''PRESENT''—1

Ganske

NOT VOTING—11

Bateman
Gonzalez
Harman
Johnson, Sam
McGovern
Meeks (NY)
Parker
Pickett
Skaggs
Torres
Wicker

☐ 1702

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. LAHOOD) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman William, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Committee resumed its sitting.

PREFERENTIAL MOTION OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I move that the Committee do now rise and report the bill back to the whole House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I have offered the motion to strike the enacting clause to have a chance to protest against the outrageous denial of democratic procedures.

Along with the gentleman from California (Mr. CAMPBELL), the gentleman from Ohio, who chairs the Committee on the Budget, the gentleman from Tennessee (Mr. HILLEARY), the gentleman from California (Mr. CONDIT), and the gentleman from New York (Mr. SERRANO), I offered an amendment to the Committee on Rules to require that American ground troops leave Bosnia by December 31 of this year.

We recently had a supplemental in which we were asked and voted, I did not but the majority did, an additional $162 million per month for the American ground troops in Bosnia. I believe, and others do, that it is time for the Europeans to step up.

We believe, at the very least, this House ought to vote on whether or not

there should be a continuation of American ground troops in Bosnia. I have heard a number of Members complain about this. We have heard the people on the committee complain that we do not have enough funds to fund Defense. Some of us feel Defense is taking too much money from other programs. What justification is there for bringing a bill and having the Committee on Rules refuse to let this House even vote on whether or not we ought to have the ground troops in Bosnia?

Another amendment was offered by the gentleman from California and the gentleman from Colorado to reaffirm the role of this House in dealing with troops in Iraq. Let us be very clear. Many of us disagree with what the President is doing. It is the leadership of the House that has decided that the House will not be able to speak on Bosnia or Iraq.

And I will say this: If Members voted for the rule and are going to vote for the bill, at least have the consistency not to complain about American troops being in Bosnia and Iraq, because we are trying to give those Members a chance to deal with it. As to Iraq, most of us would probably vote to authorize that, but it ought to be voted on by the House. As to Bosnia, a majority of the House might say it is time for Europe to defend Europe and pull out. But, again, the House is not being given a chance to vote on it.

This is a very grave error and we have to protest. If we were able to defeat this bill, it could come back very soon after we came back and those amendments could be made in order. And we just want Members to be on record that if they vote for the bill in this form, they have waived their right, by any reasonable standards, to complain about the troops in Bosnia or to complain about executive branch excesses not listened to by the Congress.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I thank my colleague for yielding.

The gentleman is quite right, the Constitution gives the Congress the responsibility to declare war. It gives it to no other part of our government. No other part of our government. Politically, sometimes it is difficult to go on record on a question of war, but it is our responsibility to do so.

When I brought a privileged motion under the War Powers Resolution concerning Bosnia to the House floor, I was proud to be able to say that the American Legion had endorsed my effort. The American Legion agreed that we should not send soldiers and sailors and air personnel overseas, potentially to die, in service of their country, without the request of the people's representatives in Congress. Regrettably, that particular motion failed by a few votes. That motion failed, I think at least in part, because it was under the War Powers Resolution.

So with my colleague from Massachusetts, I attempted to get in the rule the chance to vote on whether we should have troops in Bosnia or troops in the Persian Gulf without having to rely on the War Powers Resolution. But we were denied that chance.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Chairman, we ought to be very clear. If Members are going to go ahead and vote for this bill, let us at least change the title.

We asked for a vote on troops in Bosnia. We asked for a declaration of a congressional role in Iraq. Let us call it, if we are going to ratify a rule which says these things cannot even come up, the Congressional Abdication of Constitutional Responsibility Act of 1998, because that is what we will be doing.

We will be saying we in Congress will take our shots, we will make our political points, but tough decisions about the Middle East or Bosnia, let somebody else do them because we find them inconvenient or difficult.

I was told by the chairman of the Committee on Rules that he kept them off the floor to accommodate the President. I must say that it came as sort of a surprise to me that this bill was being constructed to accommodate the President. And it is not the sort of accommodation of a President we ought to engage in. We could save $2 billion a year by telling the Europeans it is their turn to do Bosnia. And we could serve the Constitution of the United States by the elected representatives debating it.

The leadership of this House has apparently decided, in cooperation with the President, not to speak out and to abdicate its constitutional responsibilities. That is a very grave error that does not serve well the traditions we profess to care about.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California once again.

Mr. CAMPBELL. Just to add, Mr. Chairman, one additional point of praise to our colleague from Colorado (Mr. SKAGGS), who offered an amendment in the supplemental that we not go to war in the Persian Gulf without the approval of this House. That was stricken in conference. This is our last chance to do our constitutional duty.

Mr. BUYER. Mr. Chairman, I rise in opposition to the motion.

The motion before us is a motion to strike the enacting clause. This is a preferential motion that is debatable only by 5 minutes on each side. If it is withdrawn before the vote, the motion may be repeated as soon as there is any intervening business, like further debate. If the motion is agreed to, the Committee will rise and there is a vote on the motion before the House. If that motion is agreed to, the defense bill is dead.

So I want everybody to completely understand what is before the House.

Secondly, let me address the comments on Bosnia. What I said of the President is, I would become not his critic but his constructive critic. And what I mean by that is that I want to work with the administration on an end state in Bosnia.

What we hope to do, and what I have been working on with the gentleman from Nebraska (Mr. BEREUTER) of the Committee on International Relations, along with the administration, is that when the President said he would set benchmarks of success in Bosnia on the civil implementation of the Dayton Accords, that in fact these are benchmarks that are realistic and achievable; ones that are pragmatic and ones that I believe are realistic.

We are in the course of drafting that resolution so it can be brought to this House floor so we can have the type of vote that the two Members that just previously spoke can actually have. Hopefully, we can do that in the next month.

I urge Members, if in fact a vote is called, to vote against the motion.

The CHAIRMAN. The question is on the motion offered by the gentleman from Massachusetts (Mr. FRANK).

The motion was rejected.

□ 1715

The CHAIRMAN. It is now in order to debate the subject of the assignment of members of the Armed Forces to assist in border patrol.

Pursuant to House Resolution 441, the gentleman from Indiana (Mr. BUYER) and the gentleman from Missouri (Mr. SKELTON) each will control 15 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, after consultation with the gentleman from Texas (Mr. REYES) and the gentleman from Ohio (Mr. TRAFICANT), the sponsor of the first amendment in order, I ask unanimous consent that the 30 minutes of general debate time be divided three ways between myself, the gentleman from Texas (Mr. REYES) and the gentleman from Ohio (Mr. TRAFICANT) each controlling 10 minutes.

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

There was no objection.

Mr. BUYER. Mr. Chairman, I would ask that the sponsor of the amendment please proceed, and I reserve the balance of time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment is straightforward. It does not mandate the use of troops on our border. What it does, though, is it says that if the Administration, through the Attorney General, the Secretary of the Treasury, decides to use the military, which I believe they should to stop this narcotics madness, there are certain requirements.

Number one, they must be adequately trained. Number two, they

could never be on patrol without the presence of a law enforcement entity, and they could not make arrests, and the local governor and communities shall be notified of their presence.

Now, we have a number of substitutes presented here, and the last one attempts to almost replicate my original amendment, supposedly. But the difference is mine would provide for patrols without question. The substitute provides for reconnaissance missions. And under the dictionary of ''reconnaissance,'' it is in fact to gather information and to scout but do not engage.

Let there be no mistake, the difference is, if we decide that we are going to do something about these broad shipments of narcotics, the Traficant amendment would allow our troops to be adequately trained, never to be without the presence of a law enforcement entity. But, by God, they can engage and they can take issue.

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

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to troops on the border.

As everyone knows, my background is one of having spent 26½ years patrolling this Nation's border as a border patrol agent and as a chief. I think it is a bad idea. I believe that we have to understand that the only way we are going to ensure the integrity of our borders is through trained, professional, Federal agents.

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

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I reluctantly rise in opposition to the Traficant amendment. I know this body passed the amendment in the last Congress. I believe that the President, as the chief executive officer of the land, has the inherent ability if in fact there is an emergency or a threat to the borders of our Nation, I believe it is inherent to, not only as the chief security officer but also as the Commander-in-Chief, that if in fact our law enforcement agencies are inadequate to protect the ports of entry or the borders of our Nation, the military in fact should be there to do that. I believe that is inherent as the President, and we would expect the President to do that.

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

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

Mr. TRAFICANT. Mr. Chairman, that is all my amendment says. But it then codifies how those troops shall be used so there are no more accidental shootings, there is adequate training, they are never without the presence of a law enforcement entity. And it does exactly what the Chairman now is discussing.

Mr. BUYER. Mr. Chairman, reclaiming my time, what makes me uncomfortable is the fact that we are going to set forth a process that when the Attorney General notifies the Department of Defense, then they have to provide, and it becomes very bothersome to me.

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

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

Mr. REYES. Mr. Chairman, I just want to clarify that today, in the Immigration Naturalization Act that the government has already passed that is in effect, it provides that kind of authority. There is a section that provides the authority to the President to declare an emergency and do exactly what the gentleman is talking about.

Mr. BUYER. Mr. Chairman, reclaiming my time, what we all have to recognize is that, in 1993, as we had a larger military force than we have today, that there were people that were looking for other jobs for the military to do in civil military affairs and other things. This idea also came about around that same time period.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. BUYER) has expired.

Mr. BUYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what we have to recognize right now with the United States Army is we are left with 10 divisions and of those 10 divisions, we have the five follow-on divisions that are being hollowed out; and we have to be very careful if we are going to be taking our troops and assigning them into collateral duties. Let us be very careful.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BILBRAY).

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

Mr. BILBRAY. Mr. Chairman, I would like to commend my colleague, the gentleman from Ohio (Mr. TRAFICANT), and I think even my colleague, the gentleman from Texas (Mr. REYES), who recognizes just how much the gentleman from Ohio has tried to moderate this issue and all he is trying to do is send a very clear message not just to the administration, not just to the American people, but to everyone that America will do for itself what it does for everyone else in the world and that it would defend its children and its neighborhoods with whatever resources are available.

We are just talking about allowing the people who pay the bills to have this military available, to have their neighborhoods protected just as much as the people in Bosnia or the people in Europe or the people in Africa. Is it too much to ask, Mr. Chairman, that we just recognize the people paying the bills should have the same peacekeeping capabilities that the rest of the world does?

Mr. Chairman, if we do not care about the drugs that are coming across the border, and we all know that, and illegal immigration and the related crime, let me remind my colleagues that this is a human issue, too.

More people die every year trying to cross the border illegally than were killed in the Oklahoma explosion. Let me say that again. Every year, more people die on the border trying to cross illegally. And many of those people that are dying are young juveniles who are being dragged across the border by people who think that it is safe to come across our borders.

I ask my colleagues that we send a clear message that America will do everything possible to secure its national frontiers, that the United States Congress expects the Federal Government to treat the boundaries of America as sacred and as secure as the boundaries in Bosnia or anywhere else in the world. We are asking that the commonsense approach of enforcing and using all the resources are available.

Let me just close with the gentleman from Texas (Mr. REYES) saying we want to secure the borders. The problem with not securing the borders, Mr. Chairman, is that we have refused to do everything humanly possible in the United States. Let us do as much here on our own soil as we do on everyone else's soil.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Indiana (Mr. BUYER) for yielding me time.

Mr. Chairman, I rise in strong support of the Traficant amendment. I think everyone here, particularly those Members from border states such as my State of Florida, recognize the simple truth. We are losing our war against drugs, and we are nowhere near winning our battle against illegal immigration.

I have a great deal of respect for efforts of the border patrol, the INS, the DEA and others who have been waging these wars for years. They have been valiant in their attempts, and they deserve our thanks and credit. But given the ease in which smugglers seem to be importing illegal drugs into our country and the steady stream of illegal aliens that keep crossing our borders, we obviously have not been able to equip them with the resources and tools they need to really stop these activities. And both these activities threaten our Nation by aiding and abetting crime and by weakening the fabric of our society.

The Traficant amendment is not radical. It simply allows those who are fighting these wars against illegal drugs and aliens to ask the military for help. It is not mandatory. It is not required. It simply allows the Pentagon to lend its resources where needed and when available.

I do not know about my colleagues, but I am growing tired of the term and hearing it ''the war on drugs.'' I want to end the war. I want to win the war. But we cannot do that as long as the resources of our drug lords outstrip those who we have asked to fight.

I would hope that all my colleagues who have talked tough about fighting drugs and talked tough about terrorism and talked tough about illegal immigration will put their votes where their rhetoric have been and support the Traficant amendment as offered today.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

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

Mr. RODRIGUEZ. Mr. Chairman, as a member of the Committee on National Security, I oppose the amendment by the gentleman from Ohio (Mr. TRAFICANT).

An increase of U.S. troops on the border with Mexico is a dangerous proposal that will put the border residents in danger. Our military is the world's best trained fighting forces, and they are not the police officers, and they are not the border patrol agents. They are trained to fight, and we put our own citizens in danger.

I would like to remind my colleagues, exactly 1 year ago an 18-year-old high school student, American citizen, was shot to death by the Marine on patrol in west Texas. This tragic incident highlights the complexities of placing soldiers on the border and the potential harm to many residents.

I represent the border, and I recognize the importance of fighting drugs. And border residents also, just like everyone else, want to stop the influx of illegal drugs, and they believe in stopping the flow of undocumented immigrants. But the solution they support is more border patrol and Customs Service agents. The Customs Service agents are the ones that are directly involved in assuring when products come across that those things are well checked out.

It is no wonder that the Department of Defense and Justice and the Immigration and Naturalization Service all oppose this proposal. The border patrol has nearly 8,000 agents patrolling our national borders, and the Congress has authorized an additional 1,000 agents every year up to the year 2001.

Last year, the San Antonio Express and News pointed out that the incident in west Texas is an isolated incident. Yet it is one that puts everyone in danger. We need to be concerned about the possibility of future incidents such as those when we put people that are untrained on the border that are U.S. citizens.

Mr. Chairman, I serve on the Committee on National Security Subcommittee on Military Readiness. At a time when readiness concerns are at their highest and with the troops sent for extended periods of time to Bosnia and elsewhere, we cannot afford to pull additional men.

I would ask that my colleagues vote no on the amendment.

Mr. RODRIGUEZ. Mr. Chairman, as a member of the House National Security Committee, I oppose the amendment offered by the gentlemen from Ohio. An increase of U.S. troops on the border with Mexico is a dangerous proposal that will put border residents in danger and reduce military readiness. Our military is the world's best trained fighting force; they are not police officers and they are not border patrol agents. They are trained to fight, and we put our own citizens at grave risk by deploying them on American soil.

I represent two counties along the border with Mexico. In my town hall meetings, almost everyone I spoke with opposed putting troops on our border. Many of them had served in our military, and I respect their opinion. Border residents, just like everyone else, want to stop the influx of illegal drugs, and they believe in stopping the flow of undocumented immigrants. But the solution they support is more Border Patrol and Customs Service agents who are well trained to deal with the challenges of patrolling the border.

Exactly one year ago, an 18 year old American citizen was shot to death by a Marine on patrol near Redford, Texas. This tragic incident highlights the complexities of placing soldiers on the border and the potential harm to border residents. It is no wonder that the Departments of Defense and Justice and the Immigration and Naturalization Service all oppose this proposal. The Border Patrol has nearly 8,000 agents patrolling our nation's borders, and Congress has authorized an additional 1,000 agents every year until 2001. Last year, the San Antonio Express-News pointed out that the Redford incident may be isolated but warned against deploying soldiers into an area lawfully and peacefully used by private citizens.

Mr. Chairman, I serve on the House National Security Readiness Subcommittee. At a time when readiness concerns are at there highest and with troops sent for extended periods of time to Bosnia and elsewhere, we cannot afford to pull additional men and women away from their posts to do the work of Border Patrol agents. It is unfair to our fighting men and women, and it does harm to our national security. The military can provide assistance in numerous ways without this unwarranted diversion of troops.

All of our budgets are tight. Putting troops on our border is extremely costly; it is a bad use of scarce resources. The drain on our defense budget puts our readiness at risk. The Department of Defense has warned that the troops' work along the border are of minimal value to military readiness and detract from training with warfighting equipment for warfighting missions. This lack of training would directly reduce unit readiness levels; it could require troops to spend more times overseas with less time to train between deployments. These funds could be better used training our Armed Forces for their warfighting missions or ensuring Border Patrol agents are properly trained and have the resources needed to enforce our nation's laws and to protect themselves.

The substitute offered by Congressman REYES seeks to partially address these concerns by requiring data from the Department of Defense on the costs, military value, effects on readiness, training, and preparedness of deploying military personnel to our borders.

Mr. Chairman, I, and the tens of thousands of residents I represent along the border, urge my colleagues to vote against this misguided proposal and for the substitute offered by Congressman REYES. Hopefully, in conference, this entire provision will be removed. The placement of additional soldiers on our borders is a dangerous proposal that could have deadly consequences for border residents. We must remember who we are protecting.

Mr. BUYER. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Chairman, I appreciate the gentleman yielding 2 minutes. But it might take me a little longer. Will the gentleman from Ohio (Mr. TRAFICANT) yield me 1 minute?

Mr. TRAFICANT. Mr. Chairman, I yield the gentleman from Georgia (Mr. COLLINS) 1 minute.

Mr. COLLINS. Mr. Chairman, in the Third District of Georgia, illegal immigration and drug trafficking are major concerns. I congratulate my colleague from Ohio (Mr. TRAFICANT) for offering his amendment, which helps to address both of these difficult challenges.

I strongly support the amendment, which will allow our military forces to participate in the most basic national defense function there is, that of the defense of our own borders.

General Charles Wilhelm of the U.S. Southern Command recently referred to the international drug trade as the greatest chemical weapons threat to our national security.

□ 1730

Congress should act today to allow the U.S. military to pursue its mission to protect our national security.

It is high time for Congress to set its own priorities. The administration and some Members have shown great willingness to sacrifice American service members around the world to protect the borders of other nations. Today, we must act to protect our own borders, our own hometowns, and our own children and grandchildren from the hardships and suffering caused by illegal immigration and drug trafficking.

Members have a clear choice to make today. We can support the amendment of the gentleman from Ohio (Mr. TRAFICANT) and represent the interests of our constituents by addressing the flow of illegal immigrants and drugs across our southern border, or we can choose to represent the interests of illegal aliens and drug smugglers by supporting and maintaining the current failed policies.

If you believe there is not an illegal immigration problem, you should support the Reyes substitute. If you believe the drugs are not flowing from the nations of the Andean Ridge to the streets and schools of your hometown, you should support the Reyes substitute.

If, however, you know, as I do, that illegal immigration and drug trade are destroying the fabric of our communities, you should oppose the Reyes substitute and stand in strong support of the Traficant amendment.

I urge my colleagues to support the amendment of the gentleman from

Ohio (Mr. TRAFICANT) and to provide the INS and the Custom's Service the assistance they need to defend our American borders.

Mr. REYES. Mr. Chairman, can I ask the time remaining?

The CHAIRMAN. The gentleman from Texas (Mr. REYES) has 7½ minutes remaining. The gentleman from Ohio (Mr. TRAFICANT) has 8 minutes remaining. The gentleman from Indiana (Mr. BUYER) has 1½ minutes remaining.

Mr. BUYER. Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

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

Mr. CONYERS. Mr. Chairman, here we go again. Everybody that is soft on drugs supports this amendment. If you are really tough for getting drugs, then you support the other amendment. Real simple, right? Wrong again.

I know my friend from Ohio is a big antidrug, anticrime, antiillegal activities; but understand this, most of the drugs come through the port of entry, not from the points in between. So you are putting troops out on the highways and byways, and that is not where the problem is. What am I saying is that this will not work. Even if we did it, it would not work. We would have another failure. What happened?

Number two, we are only asking some requirements that would at least let us know what in the devil is going on beside this mindless running the military and the antidrug activity and everything else.

Three, have you ever heard of Posse Comitatus at all? Anybody? Is this strange? Think about what you are doing and think about the simple fact that it will not work.

Let us give everybody real high points for being against drug proliferation, but let us use our senses about this. The Committee on National Security mostly and the Armed Services is against this, not because they do not want more jurisdiction, because they know it will not work; and you should, too.

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

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

Mr. BUYER. Mr. Chairman, I think the gentleman brings up a very good point that the Members should understand about the Posse Comitatus Act. When we have many different agencies out there, whether it is the Customs agency on the Border or any agencies, then if it is such a threat, then we should be beefing up those agencies, not our military getting involved in civil affairs.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Traficant amendment covers ports of entries as well, and it specifically states they can not make arrests, and it has been determined by the Parliamentarian that it does not infringe with Posse Comitatus laws at all.

We have got young people overdosing in cities all over this country, and we are going through this same type of constitutional jargon.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I strongly rise to support the amendment of the gentleman from Ohio (Mr. TRAFICANT). I think the gentleman is precisely right. It is time this country did something about drugs. If we think the border patrol is doing it, then let us ask ourselves why do we have 20,000 young people a year dying from drug overdoses?

It is time to use our best, but any method we need to stop drugs in this country. I cannot tell the gentleman how strongly I feel that he is exactly right.

Put the 82nd Airborne on maneuvers down there if you want to stop drugs. You have the safeguards in the bill to take care of the terrible tragedy we had before, but the tragedy is you cannot stop it in my hometown, and you cannot stop it in the State. We have got to stop it on the borders, and our military can do the job.

Mr. REYES. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has 1½ minutes remaining. The gentleman from Ohio (Mr. TRAFICANT) has 6½ minutes remaining. The gentleman from Texas (Mr. REYES) has 5½ minutes remaining.

Mr. TRAFICANT. Mr. Chairman, parliamentary inquiry. Who has the right to close this debate?

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has the right to close.

Mr. TRAFICANT. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. HASTERT).

Mr. BUYER. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. HASTERT).

The CHAIRMAN. The gentleman from Illinois is recognized for 1½ minutes.

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Indiana (Mr. BUYER) for yielding me the time.

Mr. Chairman, as you know, the national security of this country is threatened. It is not city to city. It is not State to State. But it is country to country.

We have 400 tons of cocaine, we have hundreds of hundreds of tons of marijuana, we have multiple tens of tons of heroin coming across our border every year. We lose 20,000 kids a year either to drugs or drug violence. If that is not national security, I do not know what it is.

If we lost 20,000 kids today in Bosnia or the Middle East, this country would be up in arms. We darn well better do everything we can, including putting our troops with civil authorities along the borders to stop the scourge of drugs.

We have to stand up. It is a matter of national will. It is a matter of national understanding and desire to solve a problem. I salute the gentleman from Ohio for his amendment. We need to stand behind him and make sure it becomes law.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

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

I have a great deal of respect for the gentleman from Ohio (Mr. TRAFICANT). It seems to me both amendments seek the same objective, and that is to ensure that we successfully confront the scourge of drugs in America. I am for that. But, unlike the formulation of the gentleman from Georgia, I do not accept the premise that I, therefore, have to be against Reyes and for Traficant.

I am for Reyes because I think it is a more thoughtful way of accomplishing the objective. The President of the United States has put General McCaffrey in charge of our drug control effort. I do not think he is a wimp. I think he understands military security needs. I think he understands how to utilize the military. He is the former Commander in Chief of SOUTHCOM, as so many of you on this floor know. His advice is that we do not move in this direction at this time. I think we ought to respect that.

I would also say, on a different front, that I am concerned, as all of you are, about conserving the resources we have available to keep this Nation secure. This bill does not have enough money in it for the military. I know some of my colleagues think that is not the case. I would be for spending more money in this bill.

I agree with the gentleman from Missouri (Mr. SKELTON), and I congratulate him for his leadership, and I agree with the chairman of this committee who have joined together in a bipartisan way to say, America, this is not a time to pretend that our security interests have been secured. This is not a time to retreat from our commitment and our responsibilities. We may not like being the sole superpower in the world, but that which we are, we are; and we have responsibilities.

I am supportive of deployment in Bosnia. We have saved hundreds of thousands of lives, and we have saved millions of people from being dispossessed from their homes. That is not only a moral good, it is a strategic good.

I say to my friends that, although I am going to support the Reyes amendment, I, too, agree that we ought to make every effort possible to secure our borders from the scourge of drugs.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has 1¼ minutes remaining. The gentleman from

Ohio (Mr. TRAFICANT) has 5½ minutes remaining. The gentleman from Texas (Mr. REYES) has 3½ minutes remaining.

Mr. REYES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. EDWARDS), my good friend.

Mr. EDWARDS. Mr. Chairman, I live in Texas; frankly, much closer to the Mexican border than the gentleman from Ohio. While I have great respect for the gentleman's interest in fighting drugs, as a father of two small sons who will be raised in Texas near the Mexican border I will absolutely take a back seat to no one in this House in my interest in fighting drugs.

Let us be fair in this debate. This is not about who wants to fight drugs and who does not. This is about the best way to do it. There is a right way and a wrong way to accomplish our Nation's goals. The wrong way is to put thousands of U.S. soldiers on the Texas/Mexican border to make our State look like east Berlin during the Cold War.

The Army does not want this. Those of us who represent major Army installations, and I represent the largest populated Army installation in the world, Fort Hood, I can speak for thousands of Army soldiers in saying that they came into the Army to fight for our Nation's defense and wars, not to stand on the borders of our States in the fight against drugs, a noble cause, perhaps, but one that is inappropriate because of the Posse Comitatus.

What is the next step? I agree that fighting drunk driving fatalities is terribly important. Do we want to station thousands of soldiers on American roads and highways to fight drunk driving? Certainly not. For the same reason, we should not put thousands of Army soldiers on the border of Texas.

The fact is that it takes three soldiers for every one deployed, those to be trained, those deployed, and those who just recently deployed. We simply cannot afford in our national security interest to allow thousands of soldiers to be diverted to the Texas or any other border in our States.

Mr. REYES. Mr. Chairman, I only have one speaker remaining.

The CHAIRMAN. The gentleman from Indiana (Mr. BUYER) has the right to close.

Mr. TRAFICANT. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio (Mr. TRAFICANT) has 5½ minutes remaining.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in order to vote on the Traficant amendment, you must defeat the Reyes amendment. Mr. REYES admitted when he started he opposes troops on the border. The buzzword in here is reconnaissance. Reconnaissance means to gather information, to scout, but do not engage. That is the difference.

I do not mandate anything. No one is doing anything. Someday maybe we will get a President that may want to. The gentleman from Texas (Mr. EDWARDS) does not want it. The gentleman from Texas (Mr. REYES) does not want it. Maybe the Pentagon does not want it.

The American people not only want it, they need it. How many more overdoses in cities across America? Well, 100 percent of all heroin and cocaine comes from overseas. All the Traficant amendment says, and this disguise of an amendment which parallels it, even though he does not want it, with the reconnaissance language, no engagement is just that.

We are not engaged in a war around here. This is a joke. I do not mandate it. But, by God, if there is an emergency and we are to do it, here is what the Traficant language says: They can be deployed. They must be trained. They can never be out unless it is a joint participatory law enforcement envoy with them who would make the arrest. But if they see a narcotic trafficker, they can tackle them. They can engage.

How much more are we going to protect? You said we have done a good job in Bosnia. We save lives. We have.

□ 1745

We saved lives in Korea. This is a national security issue. This is a national security bill. Is the border between Mexico and Canada the same as the border between Ohio and Pennsylvania? The border is a national security issue, and, by God, the Congress of the United States better start securing our borders.

Now, I know the business and the politics of this place, but I have got kids dying of overdose, and we are not doing a damn thing about it.

This is camouflaged language, and the only way you are going to have this vote, and maybe it will not become law this time; it took 14 years to change the burden of proof in a tax case, and it might take another 10. But you answer this question: How many more overdoses have we had? How many more kids getting shot and ripped? If we do not protect our borders, who is going to do it? Japan? How about China now?

I want a ''no'' vote on Reyes, and I want to send a message to everybody, the American people want the Congress of the United States to treat our borders as a national security checkpoint, and I want an admission from this Congress. We have had a lot of rhetoric and talk. We have failed. We do not even engage. The substitute does not even engage. This is about our war on drugs.

Now, I am not the most well-liked guy around here. I do not come with easy things. But, damn it, I am going to present the engagement of a debate on this, because we have been wrong. And if we need more money, appropriate it. I think we are real low in the military. And if they decide they want to have an emergency and send troops, they should come in here and ask for the money, and we should give them the money.

That is exactly what I stand for, very simple. This substitute, the man says he opposes deployment of troops, and he puts the buzz word ''reconnaissance, do not engage.'' Well, if we are not going to engage, then why do not we just throw out the ball, give the needles, and keep jacking the arms of kids all over America.

I want the Committee on National Security not only to vote for this, I want you to fight like a junkyard dog to keep it in the final bill. And I hope to God we get some day a President that is going to utilize the option that the Congress of the United States would make available to him. I do not mandate it. I will just ensure if they do it, we do not have another shooting we had in Redford, Texas. And that is why we had it. The Congress was not engaged, and the Congress let a slipshod, throw-out-the-ball program end up taking a life. We did not throw out the FBI for Ruby Ridge, and we should not throw out the military presence on the border because of an accidental shooting.

My major concern is not immigration, which some people are demeaning me with; it is tons and tons of heroin and cocaine. For those who represent cities overrun with narcotics, you are talking about the source. Not treatment now, you are talking about the drugs coming in. And if we do not intercept them, folks, we do not have a program.

So I am going to ask in closing here, because I cannot come back now, to defeat the amendment of a substitute that does not engage. And if we are going to do this, allow us to engage under restricted parameters that meet Posse Comitatus and could also get us into all ports of entries to get at this madness. We can do that, we should do that. This is a national security issue.

Mr. REYES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas is recognized for 2 minutes.

Mr. REYES. Mr. Chairman, we have heard a lot this afternoon about being proactive, being engaged, being pro-law enforcement. I would like to begin by clearing up a misconception on this issue.

Voting to send armed military personnel to the border and patrolling our Nation's borders is not a pro-enforcement vote. It does not mean that you are tough on crime; it does not mean that you are tough on drug traffickers or tough on illegal aliens.

If anyone wants to be tough on crime, wants to be tough on drug traffickers, then you need to come spend some time on the border. Come spend some time with me working with the Border Patrol. Come spend some time with me working with Customs, with DEA.

If you want to be tough on crime and you want to understand how tough it is to patrol the Nation's borders, come

with me and see it for more than a couple of hours. Do not stand here in this House and talk about how tough we can be and how tough we should be and the kinds of things that we are or are not doing.

The truth is, all across the border, both on the southern and the northern border, we have got Border Patrol officers, we have got Customs officers, we have got Inspectors, we have got DEA, they are all engaged in enforcing this Nation's laws against both illegal immigration and narcotics trafficking.

The gentleman from Ohio, whom I respect, is concerned about drugs. I have repeatedly explained to him, 90 percent of the drugs coming into this country come through ports of entry, ports of entry that today are utilizing National Guard to help Customs inspect the trucks.

Now, let me give you a statistic. Out of every 100 trucks coming in from Mexico, only three get fully inspected by Customs. So I would ask the question, if you were a drug trafficker and you had those kinds of odds, would you send drugs through the river, or would you send them through the ports of entry in that way?

Mr. Chairman, I ask that Members not support sending military to the border, and I ask that you support my amendment.

Mr. BUYER. Mr. Chairman, I yield one minute to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, the gentleman from Ohio spoke about the war on drugs, and nobody can deny that that is happening in America today. But the front line of the war on drugs is just as much in Youngstown, Ohio, as it is in Nogales, Arizona; and I do not think any of us believe that the 82nd Airborne should be patrolling the streets of Youngstown, Ohio.

The fact is, we are already using military forces in a substantial way along the border. We have JTF–6 located in El Paso that coordinates all of the intelligence work that we are doing on the war on drugs. We have the Air Force operating the aerostats that look for the planes that would be crossing the border. We have Reserve engineering companies that are on active duty along the border building roads and fences every single day. We have the National Guard that is helping to load and unload trucks so they can be inspected along the border.

Mr. Chairman, I serve on two of the appropriations subcommittees that between them fund almost 100 percent of Federal law enforcement. We are struggling in those subcommittees to make sure that we have adequate resources to provide the Customs agents, the Border Patrol, the INF inspectors, the DEA people that we need. But we need specialized people trained to do the work. We do not need paratroopers, we do not need Abraham tanks, we do not need B–2 bombers. We need to have the kind of people that can do the work of interdicting drugs and protecting our borders. I urge Members to vote ''no'' on the Traficant amendment.

Mr. BUYER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to compliment the gentleman from Ohio for his passion and years of work on this measure. I just want to say to the gentleman that we have in place the DEA, Customs and Border Patrol. This is an issue of who are the proper agencies out there and whether they have the sufficient funds.

I respectfully disagree with the gentleman. I would urge the Members to vote for the Reyes amendment and against the gentleman's measure, respectfully.

The CHAIRMAN. It is now in order to consider the amendments printed in part C of House Report 105–544, which shall be considered in the following order:

Amendment No. 1, by the gentleman from Ohio (Mr. TRAFICANT); and Amendment No. 2, by the gentleman from Texas (Mr. REYES).

It is now in order to consider Amendment No. 1 printed in part C of House Report 105–544.

AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part C Amendment No. 1 offered by Mr. TRAFICANT:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

''§ 374a. Assignment of members to assist border patrol and control

''(a) ASSIGNMENT AUTHORIZED.—The Secretary of Defense may assign members of the armed forces to assist—

''(1) the Immigration and Naturalization Service in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

''(2) the United States Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States.

''(b) REQUEST FOR ASSIGNMENT.—The assignment of members of the armed forces under subsection (a) may only occur—

''(1) at the request of the Attorney General, in the case of an assignment to the Immigration and Naturalization Service; and

''(2) at the request of the Secretary of the Treasury, in the case of an assignment to the United States Customs Service.

''(c) TRAINING PROGRAM.—If the assignment of members of the armed forces is requested by the Attorney General or the Secretary of the Treasury, the Attorney General or the Secretary of the Treasury (as the case may be), together with the Secretary of Defense, shall establish a training program to ensure that members to be assigned receive general instruction regarding issues affecting law enforcement in the border areas in which the members will perform duties under the assignment. A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

''(d) CONDITIONS ON USE.—(1) Whenever a member of the armed forces who is assigned under subsection (a) to assist the Immigration and Naturalization Service or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

''(2) Nothing in this section shall be construed to—

''(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

''(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

''(e) NOTIFICATION REQUIREMENTS.—The Attorney General or the Secretary of the Treasury (as the case may be) shall notify the Governor of the State in which members of the armed forces are to be deployed pursuant to an assignment under subsection (a), and local governments in the deployment area, of the deployment of the members to assist the Immigration and Naturalization Service or the United States Customs Service (as the case may be) and the types of tasks to be performed by the members.

''(f) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members of the armed forces assigned under subsection (a).

''(g) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2001.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

''374a. Assignment of members to assist border patrol and control.''.

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

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Texas (Mr. REYES) each will control 5 minutes.

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

Mr. TRAFICANT. Mr. Chairman, I yield myself one minute.

To the distinguished chairman, you are advising this Congress to support troops on the border that cannot engage. You are telling them to vote for a substitute that does not engage, but puts troops on the border.

Mr. Chairman, the only difference with these two amendments is he says you can put them on the border, but they cannot engage. The Traficant amendment says, I do not limit them. They can tackle them, they can detain them, but they can only be there if the administration wants them, and they must be out there with a civilian law enforcement entity, and they cannot make the arrests, and it specifically states and cites the Posse Comitatus laws.

How many more overdoses will we have? Why does not the Congress just deploy troops to the border and then tell them, ''Don't engage.''

Beam me up, really. That states it. That is the drug policy of the United States of America.

Mr. REYES. Mr. Chairman, I yield 1½ minute to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the Department of Defense does not support this, the Department of Justice does not support the Traficant amendment, the people who live along the border in Texas and parts of California do not support this amendment. And if you do not believe that, talk to the folks in Redford, Texas. When the military was deployed in Texas last year for that brief time they were out there, while we all talk here, talk about reducing drugs and the number of people who die in this country as a result of drug overdoses, the deaths that were occurring were not because of drug use so much as Ezequiel Hernandez, a U.S. citizen, dying at the hands of our own military. The first time since 1970 that someone who was an American citizen on American soil has perished at the hands of his own compatriot.

That is what happens when you put a force that is trained to kill on a border to do work that is not necessarily to kill, but to interdict.

If I were a Border Patrol agent watching this debate, I would say, ''Thanks a lot. I go out every day and I try to stop drugs from coming into this country, and you are telling me I do not do a good job. And you are telling me my fellow companions that go out there every day, they do not do a good job, and we have to have now someone else not trained to do my job, do my job.''

We have got to stop talking and give the resources, so the folks who do the work have the chance to do it. That is what we have to do. A lot of talk here, a lot of action on the border. Let us support the folks who do the action and stop the drugs from coming in, rather than just saying we are going to stop the drugs. That is what we need to do.

Mr. REYES. Mr. Chairman, I yield one minute to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I had not intended to become involved in this debate, but as ranking member of this committee, I must. I must look out for the military that we have, knowing the various missions that we have and, frankly, the lack of young men and young women that we have presently on duty.

Mr. Chairman, first we should look at the specialists, those that are involved in Border Patrol, the Customs, the National Guard. We already have military people of all services, including the Navy, working against the drug traffic.

This evidently involves brute force. The 82nd Airborne, my goodness, they are the first line of our defense. We have today too few young men and young women to cover the necessary missions that they have. We need more. We need more resources for the right specialists, and even to consider this, we need more resources for those in uniform.

PARLIAMENTARY INQUIRY

Mr. REYES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. REYES. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Texas (Mr. REYES) has the right to close.

Mr. REYES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I was born and raised on the border, and I stand and I speak in favor of the Reyes substitute amendment and against the Traficant proposal.

I find it incredibly ironic that exactly one year ago today a Marine assisting the INS on our border shot and killed Ezequiel Hernandez, an 18-year-old U.S. citizen from Redford, Texas. Zeke, as he was called, had the misfortune of living on our southern border in an area known for drug trafficking, and he paid the price with his life.

□ 1800

I have to ask all of my colleagues here if they believe that that is fair. Ezequiel became a casualty of America's drug wars, the victim of an upsurge of violence along the 2,000-mile United States and Mexican border that has put residents and law enforcement officials on edge. Zeke is dead and there is nothing we can do to bring him back.

It is unfair to our fighting men and women, and it does harm to our national security. The military can provide assistance in numerous ways without this unwarranted diversion of troops. All of our budgets are tight. Putting troops on our borders is extremely costly, and it is a bad use of resources.

These funds could be better used training our Armed Forces for better war-fighting missions or ensuring Border Patrol agents are properly trained and have the resources needed to enforce our Nation's laws and to protect themselves.

Mr. Chairman, I urge each and every colleague to vote against the Traficant amendment and to support the Reyes amendment.

Mr. TRAFICANT. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Ohio (Mr. TRAFICANT) has 4 minutes remaining, and the gentleman from Texas (Mr. REYES) has 1 minute remaining.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Appropriations Subcommittee on National Security.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding me the time. I am going to support with enthusiasm the Traficant amendment.

To lose the war against drugs is tragic, but to surrender to the war on drugs without even launching a fight is just inexcusable. I think that while it might be different than the policies that we have used in the past, I think that the gentleman's approach to this could certainly be one of the major efforts in stopping the terrible influx of drugs into the Nation and into the bodies of Americans.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume. I am proud to have the support of the distinguished chairman of the Appropriations Subcommittee on National Security.

Our military is underfunded. We have taken a meat ax to it. We have sent our military all over the world to protect the borders all over the world. We come down to very sophisticated, legalized types of debates when we talk about our own border.

Today's debate is not just about a nonengagement, status quo alternative that is not really even wanted; today's debate is not about Ezequiel Hernandes. Zeke is dead because Congress did not put in safeguards to the madness that exists.

Today's debate is about national security in our border. There was, in fact, a report issued by the National Defense Panel, and I want to share this with the gentleman from Florida (Mr. YOUNG), because I do not believe I have, and I want to quote: ''The apparent ease of infiltration of our borders by drug smugglers illustrates a potentially significant problem. It suggests that terrorist cells armed with even nuclear, chemical and biological weapons, could also infiltrate our borders.''

I have nothing against the Border Patrol. They need 25,000 more of them. When I call over there, if we had 25,000 more Border Patrol, they say we would have to hire anywhere between 6,000 and 9,500 support personnel to accommodate another 25,000.

I think it is time to reassess the issue of national security. I am not talking about New York and New Jersey, New Mexico and Texas, I am talking about every port of entry and I am talking about the border of our Nation, and if that is not a national security checkpoint, then we do not know what we are doing here.

Now, if, in fact, we are saying we are going to lose readiness, I do not mandate this, and we should not have to lose readiness protecting our borders, Congress. That is an insult. If we need money and the President would decide to do it, there is an appropriation process, there is a Committee on Appropriations.

Let me say one last thing. What I do is codify how this would happen if that Commander in Chief would so decide, and maybe this one may never do it, and maybe there are people in the House that might never want it. But how many more tragedies and deaths and tons of cocaine and heroin do we keep reading about before we act?

I offer a process. It is very imperative that we defeat the Reyes amendment. It does not engage and he does not even want troops. I am saddened that the gentleman from Indiana (Mr. BUYER), the authorizing chairman, would support a nonengagement deployment that costs the same amount of money, but would leave them handcuffed. I would ask that my colleagues support my amendment.

Mr. REYES. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Texas (Mr. REYES) has 1 minute remaining.

Mr. REYES. Mr. Chairman, I yield myself the remainder of my time. Again, I rise in opposition to troops on the border, and in reference to the comments from my colleague from Ohio, I doubt that we in this body want troops at O'Hare, at JFK, LaGuardia, LAX, those are all ports of entry, and when we are talking about terrorism, I have been there. I have done it. Terrorists do not come in a specific profile, they come dressed like the gentleman from Ohio (Mr. TRAFICANT), they come dressed like me. Most importantly, they come through the ports of entry. They have nothing to do with the troops being out patrolling between those ports of entry.

Drug smugglers, border bandits. The last time I was in a gun fight was in March of 1995 with border bandits and drug smugglers. I know the issues, I know what is important, and I can tell my colleagues, military on the border is a bad idea.

If my colleagues doubt that, let me give an example. I was in Bosnia in January. Of about 28 soldiers that we had a town hall meeting with, 3 of them had told me that they had been on a drug mission in Texas and part of the problem that I see here is that when we are involving our troops doing police work, it is completely different from combat. I think it is a disservice to have them on the southern border of Texas today and 6 months from now have them in Bosnia, in real danger, and having to decide, is this combat or is this law enforcement?

The CHAIRMAN. The gentleman's time has expired. All time has expired.

It is now in order to consider the substitute amendment to the Traficant amendment, numbered 2 in part C of House Report 105–544.

AMENDMENT NO. 2 OFFERED BY MR. REYES AS A SUBSTITUTE FOR AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

Mr. REYES. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Part C amendment No. 2 offered by Mr. Reyes as a substitute for amendment No. 1 offered by Mr. Traficant:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

"§ 374a. Assignment of members to assist border patrol and control

''(a) ASSIGNMENT AUTHORIZED.—The Secretary of Defense may assign members of the armed forces to conduct reconnaissance missions to assist—

''(1) the Immigration and Naturalization Service in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

''(2) the United States Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States.

''(b) WRITTEN REQUEST FOR ASSIGNMENT; ELEMENTS.—(1) The assignment of members of the armed forces under subsection (a) may only occur at the written request of the Attorney General, in the case of an assignment to the Immigration and Naturalization Service, and at the request of the Secretary of the Treasury, in the case of an assignment to the United States Customs Service.

''(2) The written request from the Attorney General or the Secretary of the Treasury (as the case may be) shall include—

''(A) a precise definition of which activities the members of the armed forces are to participate in, the duration of their mission, and the liability to be assumed by the Department of Defense upon assignment of armed forces personnel;

''(B) an examination of the beneficial and detrimental effect of these assignments on the military training, readiness levels, military preparedness, and overall combat effectiveness of the armed forces;

''(C) the estimated cost of such assignments to the Immigration and Naturalization Service or the United States Customs Service (as the case may be), as required under subsection (f); and

''(D) an examination of the possibility that members of the armed forces may inadvertently participate in law enforcement activities in violation of section 375 of this title and 1385 of title 18 (popularly known as the 'Posse Comitatus Act'), both of which prohibit direct participation of military personnel in civilian law enforcement activities.

''(c) TRAINING PROGRAM.—(1) If the assignment of members of the armed forces is requested by the Attorney General or the Secretary of the Treasury, the Attorney General or the Secretary of the Treasury (as the case may be), together with the Secretary of Defense, shall establish a training program to ensure that the members to be assigned are properly trained to deal with the unique and diverse situations that the members may face in performing their assignment along the international borders of the United States and major ports of entry.

''(2) A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

''(d) CONDITIONS ON USE.—(1) Whenever a member of the armed forces who is assigned under subsection (a) to assist the Immigration and Naturalization Service or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

''(2) Nothing in this section shall be construed to—

''(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

''(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

''(e) NOTIFICATION REQUIREMENTS.—The Attorney General or the Secretary of the Treasury (as the case may be) shall notify the Governor of the State in which members of the armed forces are to be deployed pursuant to an assignment under subsection (a), and local governments and local law enforcement agencies in the deployment area, of the deployment of the members to assist the Immigration and Naturalization Service or the United States Customs Service (as the case may be) and the types of reconnaissance missions to be performed by the members.

''(f) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members of the armed forces assigned under subsection (a).

''(g) REPORTING REQUIREMENTS.—Upon the completion of each assignment of members of the armed forces under subsection (a), the Secretary of Defense shall submit to Congress a report containing—

''(1) an examination of the beneficial and detrimental effect of such assignments on the military training, readiness levels, military preparedness, and overall combat effectiveness of the armed forces;

''(2) an assessment of the value of this section; and

''(3) recommendations on the continued use of the authority provided under subsection (a).

''(h) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2001.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

''374a. Assignment of members to assist border patrol and control.''.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Texas (Mr. REYES), and a Member opposed each will control 5 minutes.

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

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

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

Mr. FILNER. Mr. Chairman, I rise in support of the Reyes amendment and in opposition to the Traficant amendment, and I thank my friend from Ohio for raising this issue.

I live in the district that has the busiest border crossing in the world. We need the attention to this issue. We need the help of this Congress to fight those drugs. But I tell my colleagues, this is the wrong way to do it.

We should ask ourselves, I say to the gentleman (Mr. TRAFICANT) and those who spoke from Georgia and Illinois, why is it that the Members of this body who represent the 2 cities that are the biggest on the border, that have the busiest crossings on the border, and many other of the border Congress people oppose the Traficant amendment? We know something about the border. We know that this fight has to be increased. But we have constituents who we are bound to protect.

We believe, and we have evidence, and my colleagues have heard it today,

that those who are trained in the best equipped, best disciplined, most efficient fighting machine in the world are not equipped or trained to fight this fight.

Our constituents are at risk with American troops at the border, and may I remind my colleagues, this is a friendly country. Nobody has said that yet. The last invasion I recall was maybe the Alamo, but this could do serious damage to that relationship. It could do serious damage to our constituents.

Yes, I say to the gentleman from Ohio, (Mr. TRAFICANT), let us fight this war, but let us not limit ourselves to the old and easy ideas of ending the scourge; let us go beyond the conventional solutions of this greater force, move toward more innovative proposals.

We who represent the places where the gentleman is concerned about are against the gentleman's amendment. I urge my colleagues to join us in defeating the Traficant amendment.

Mr. TRAFICANT. Mr. Chairman, I claim the time in opposition, and I yield myself 30 seconds.

The gentleman opposes the deployment of troops under the Traficant amendment, but supports the deployment of troops under the Reyes amendment, and they cannot engage. That is what the gentleman just said.

My constituents do not live on the border either, but 80 percent of the heroin and cocaine going into their arms and up their nose comes across that border.

Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. KINGSTON).

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

Mr. Chairman, we just heard it said that if we have our American armed services personnel on the border that it will harm American constituents. It is not the Army, Navy, Marines that I know of. They are not going to turn their guns and use their weapons on American constituents, and I probably misunderstood what I heard, but I did hear that it was going to harm our constituents. That is not the point.

The point is to keep drugs away from our constituents who are being harmed by drugs that are getting in.

Mr. Chairman, if one is in a burning building and one has to jump 5 stories, one does not say wait a minute to the fireman below with the safety net, are you from the right fire jurisdiction? I do not want to jump just to anybody.

Our school kids are being flooded with illegal drugs, and this is not about which uniform is going to protect our border; this is about protecting the children in the schoolyard, it is not about a turf war between the DEA or the INS or the Marines. It is about protecting children.

I am a member of the drug task force. We have been studying the problem for a long time. We cannot effectively fight drugs without a strong interdiction program, and much of that has to be done at our border. This is not about telling the INS they are not doing a good job, this is about saying, send in the cavalry, the war is a lot bigger than we thought it was, and we need to have everybody on deck, helping out to try and stop this, because it is killing our children. Forget which government agency is going to get the credit. Let us save our children and put kids first.

Mr. REYES. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the Reyes amendment. Let us think about this for a minute. We have 2 borders in this country, one with Mexico and one with Canada. The shortest of the 2 is Mexico. We are suggesting here that that is the border we need to put troops on in a country that has been a great ally to the United States, and frankly, the border between California and Mexico and Texas and Mexico is the busiest commercial border in the world.

We are going to try to now slow down that border and put people that are untrained on that border, and it just does not make sense. Essentially it sends out a message that our country just wants to be fortress America. Most of America is surrounded by water. What about all the coastlines? Are we going to put the troops in my district in Pebble Beach in Florida and in West Palm Beach? People would not stand for that.

Besides that, the gentleman from Ohio (Mr. TRAFICANT) comes up here and says his amendment allows him to engage and yet we read in the amendment, here it says, ''Nothing in this section shall be construed to authorize a member assigned under subsection (a) to conduct search, seizure or similar law enforcement activity or to make an arrest.''

The Reyes amendment is a better one, please support it.

□ 1815

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to the gentleman, the Traficant amendment lets them engage, to tackle and detain them for the law enforcement entity to arrest them.

Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I will take 30 seconds, since I have to go get a BESTEA bill out on the floor so Members can go home tomorrow.

I ask Members, defeat the Reyes amendment, because it is status quo. Support the Traficant amendment because then we will do something about the drugs crossing these borders that are killing our children. Please defeat the amendment of my good friend, the gentleman from Texas (Mr. REYES). He is a great guy but the amendment is wrong. The amendment offered by the gentleman from Ohio (Mr. TRAFICANT) is right. It is a good amendment, vote for it.

Mr. TRAFICANT. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I ask for opposition to the Reyes amendment. Let us not be so darned politically correct when it comes to the defense of this Nation.

Mr. Chairman, the drug importers and sellers are watching us today, and they will say, either we vote for the Reyes amendment, which maintains the status quo, or we vote for the Traficant, which will say we will do what we can at the border within the resources of this country to defend this country.

Those who are saying that Mexico might get upset, and let me challenge them, Mexico has been willing to do at the border what we have not. Everyone who votes against Mexico's certification ought to look at that vote. They have put the troops on the border, not because it is anti-American, but because it is antidrug.

Let us have the guts to be pro American and antidrug, and if Members want to vote against Mexico, they had better vote for this bill.

Mr. TRAFICANT. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of the Traficant amendment and oppose the Reyes amendment. The basic reason, in 1968 I was in the Marine Corps stationed in Quantico, Virginia. We came up here when there were D.C. riots after Martin Luther King, Junior, was assassinated.

We as the U.S. Marine Corps patrolled the streets, made sure people were not out looting and things like that. Whenever we came across a problem, we called the District of Columbia police. They were the ones that made the arrest. The point is, we operated with them in a very fluid manner. I think this is a possibility for the Southwest. Support the Traficant amendment.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if Members support the Reyes amendment, they say we can put troops on the border, but they cannot be engaged. The gentleman from Texas (Mr. REYES) admitted when he started the debate he does not even want troops on the border. They are just trying to kill the Traficant amendment. We know that.

The Traficant amendment says they must be trained, they must be requested by the Attorney General, the Secretary of the Treasury, and the President; let us face it, specifically

trained. They can never go out on a patrol by themselves. And yes, they cannot make the arrest. That is the protection constitutionally, the posse comitatus law. They can tackle that guy, they can return fire.

Narco terrorists have been shooting across the border at our people for quite a while. We have border patrol agents in hospitals being shot by narco terrorists, Mr. Chairman.

In order to have a vote on the Traficant amendment, Members must defeat the substitute. I am asking Members to do that, and give this House a chance to up-or-down vote on an amendment that we can fight for in that conference. Maybe right now there is not enough steam with it, but we are engaging in the debate for our constituents. I am asking Members to defeat the Reyes substitute and vote for the Traficant amendment.

Mr. REYES. Mr. Chairman, first, I would like to thank the gentleman from Ohio (Mr. TRAFICANT). I have spent some time today discussing this issue with him, and I appreciate the fact that this year I believe that the debate has been on a very high level, and about the real issues. I respect the fact that he is concerned about the amount of narcotics in this country. We are all concerned about that.

But where we disagree is where we think that in support for the Traficant amendment, where we think that we can stand here or vote for a proposal that could conceivably cost the lives of, yes, constituents.

Somebody made mention of questioning whether we are harming constituents. Ironically enough, one year ago today a young man in Redford, Texas, was shot and killed in a very unfortunate incident by a United States marine deployed on one of these patrols. If that is not harming a constituent, I do not know what is.

We talk about being members of the drug task force, we talk about drug strategy. There is only one way to defeat drugs. That is on three different levels. I know, because I spent 26½ years doing that, not being a member of a drug task force, or not being a part of this or a part of that, but doing the job, working with other Federal agencies, local and State agencies.

There are three ways we need to approach this problem. That is through education, that is through treatment, and yes, that is through enforcement. But enforcement does not include deploying the military into our communities along the border. The price is too high. The death of one young man in Redford, Texas, is too high. Stop and think, as parents, what Members would be feeling today one year ago, when that young man was shot and killed. It pours salt in a wound that has not even healed yet.

The gentleman from Ohio (Mr. TRAFICANT) makes mention of my opposition to troops on the border. Yes, I am opposed to troops on the border, but I think I am opposed to the troops on the border for the right reasons. I do not have to sound tough on drugs, I have been there. I have done that. I ask that Members support the Reyes amendment, and that they ultimately understand why we are opposed to sending troops to our borders.

Mr. ORTIZ. Mr. Chairman, I rise today to register my opposition to the Traficant amendment, by my friend from Ohio; and in support of the Reyes substitute which would better organize the scope of the military's role on the border.

As a veteran and a former law enforcement officer, I understand the unique perspectives of those who strive to keep the peace on the border, and the views of those in this Congress who believe we should put military resources we already have in a place they are needed. However, putting our soldiers on the border is a very bad idea.

For 50 years, the United States spent our money and our energy fighting a war against communism. In 1989, we saw the Berlin Wall finally come down.

It would be a mistake of enormous proportions if we erected our own wall, in the form of our military, along our southern border.

At a time when Mexico is our neighbor, friend and economic partner, it would be folly to station troops WHO ARE TRAINED TO KILL on the international border.

There is a huge difference between law enforcement officers trained to police the civilian population and the military troops who are trained to kill the enemy.

We are painfully aware that illegal immigrants and drugs are coming across the border. But the answer to that problem is to increase the Border Patrol staff along the border, not reinforce it with troops trained to shoot to kill.

Already there have been two incidents along the border in which the military engaged. As a result, one young U.S. citizen has died at the hands of another in pursuit of an ambiguous mission. We cannot change that; but what we do here today may well prevent it from happening again.

The reason I support trade treaties like NAFTA and GATT is that they address the economic foundations of this region by expanding economic and job opportunities.

We are better served as a nation if we address the economic motivation behind the movement of illegal immigrants and drugs, as opposed to positioning U.S. troops to be our cops at a friendly international border.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio (Mr. TRAFICANT) will state his parliamentary inquiry.

Mr. TRAFICANT. Mr. Chairman, the first vote that will be taken will be taken on the Reyes substitute, am I correct?

The CHAIRMAN. The gentleman is correct.

The question is on the amendment offered by the gentleman from Texas (Mr. REYES) as a substitute for the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair may reduce to not less than 5 minutes the time for any recorded vote that may be ordered on the Traficant amendment, without intervening business or debate.

The vote was taken by electronic device, and there were—ayes 179, noes 243, not voting 11, as follows:

[Roll No. 179]

AYES—179

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonilla
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Cannon
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kolbe
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Paul
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Velazquez
Vento
Waxman
Weygand
Whitfield
Wise
Woolsey
Wynn

NOES—243

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bono
Boswell
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane

Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kucinich
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moakley
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Owens
Oxley
Packard
Pappas
Pascrell
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wolf
Yates
Young (AK)
Young (FL)

NOT VOTING—11

Bateman
Foley
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Torres
Wicker

□ 1841

Mr. RIGGS, Mr. DAVIS of Virginia, Ms. RIVERS, Mr. DEUTSCH, and Mr. EHRLICH changed their vote from ''aye'' to ''no.''

Mr. JOHN, Ms. BROWN of Florida, and Mr. CANNON changed their vote from ''no'' to ''aye.''

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 288, noes 132, not voting 13, as follows:

[Roll No. 180]

AYES—288

Aderholt
Andrews
Archer
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Everett
Ewing
Fawell
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones
Kaptur
Kasich
Kelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Metcalf
Mica
Miller (CA)
Miller (FL)
Moakley
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanchez
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Strickland
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wolf
Young (AK)
Young (FL)

NOES—132

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonilla
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Capps
Cardin
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Ehrlich
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Green
Gutierrez
Hamilton
Hastings (FL)
Hayworth
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (WI)
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kolbe
Lampson
Lee
Lewis (GA)
Linder
Lofgren
Markey
Martinez
Matsui
McDermott
McGovern
McHale
McKinney
Meek (FL)
Menendez
Millender-McDonald
Minge
Mink
Mollohan
Morella
Nadler
Neal
Oberstar
Olver
Ortiz
Pastor
Paul
Payne
Pelosi
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sanders
Sanford
Sawyer
Scott
Serrano
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Stump
Stupak
Thompson
Tierney
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weygand
Whitfield
Wise
Woolsey
Wynn
Yates

NOT VOTING—13

Armey
Barrett (NE)
Bateman
Foley
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Torres
Wicker

□ 1850

Mr. TOWNS changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 19 printed in part D of House Report 105–544.

AMENDMENT NO. 19 OFFERED BY MR. GILMAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 19 offered by Mr. GILMAN:

At the end of title XII (page 253, after line 3), insert the following new section:

SEC. 1206. NUCLEAR EXPORT REPORTING REQUIREMENT.

The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by adding at the end the following new chapter:

"CHAPTER 11—NUCLEAR EXPORT REPORTING

"SEC. 111. REPORTS ON EXPORTS.

''(a) ACTIONS REQUIRING REPORTING.—Unless and until the conditions set forth in subsection (b) are met—

''(1) no license may be issued for the export of—

''(A) any production facility or utilization facility,

''(B) any source material or special nuclear material, or

''(C) any component, substance, or item that has been determined under section 109b. of the Atomic Energy Act of 1954 to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes;

''(2) the United States shall not approve the retransfer of any facility, material, item, technical data, component, or substance described in paragraph (1); and

''(3) no authorization may be given under section 57b.(2) of the Atomic Energy Act of 1954 for any person to engage, directly or indirectly, in the production of special nuclear material.

''(b) CONDITIONS.—

''(1) IN GENERAL.—The conditions referred to in subsection (a) are the following:

''(A) Before the export, retransfer, or activity is approved, the appropriate agency shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing such export, retransfer, or activity and the basis for any proposed approval thereof, and, in the case of an authorization described in subsection (a)(3), the appropriate agency shall transmit to the Committee on Commerce of the House of Representatives a report describing the activity for which authorization is sought and the basis for any proposed approval thereof. Each report under this subparagraph report shall contain—

''(i) a detailed description of the proposed export, retransfer, or activity, as the case may be, including a brief description of the quantity, value, and capabilities of the export, retransfer, or activity;

''(ii) the name of each contractor expected to provide the proposed export, retransfer, or activity;

''(iii) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in the recipient country to carry out the proposed export, retransfer, or activity;and;

''(iv) a description, including estimated value, from each contractor described in clause (ii) of any offset agreements proposed to be entered into in connection with such proposed export, retransfer, or activity (if known on the date of transmittal of the report), and the projected delivery dates and end user of the proposed export, retransfer, or activity; and

''(v) the extent to which the recipient country is in compliance with the conditions specified in paragraph (2) of section 129 of the Atomic Energy Act of 1954.

The report transmitted under this subparagraph shall be unclassified, unless the public disclosure thereof would be clearly detrimental to the security of the United States.

''(B) Unless the President determines that an emergency exists which requires immediate approval of the proposed export, retransfer, or activity in the national security interests of the United States, no such approval shall be given until at least 30 calendar days after Congress receives the report described in subparagraph (A), and shall not be approved then if Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export, retransfer, or activity. If the President determines that an emergency exists that requires immediate approval of the proposed export, retransfer, or activity in the national security interests of the United States, thus waiving the requirements of this paragraph, he shall submit in writing to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a detailed justification for his determination, including a description of the emergency circumstances that necessitate the immediate approval of the export, retransfer, or activity, and a discussion of the national security interests involved.

''(2) CONSIDERATION OF JOINT RESOLUTIONS IN THE SENATE.—Any joint resolution under paragraph (1)(B) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

''(c) PUBLICATION OF UNCLASSIFIED TEXT OF REPORTS.—The appropriate agency shall cause to be published in the Federal Register, upon transmittal to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, the full unclassified text of each report submitted pursuant to subsection (b)(1)(A).

''(d) EXCEPTIONS.—The requirements of this section shall not apply to—

''(1) any export, retransfer, or activity for which a general license or general authorization is granted by the appropriate agency; or

''(2) any export or retransfer to, or activity in, a country that is a member of the Organization for Economic Cooperation and Development.

''(e) DEFINITIONS.—As used in this section, the terms 'production facility', 'utilization facility', 'source material', and 'special nuclear material', have the meanings given those terms in section 11 of the Atomic Energy Act of 1954.''.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from New York (Mr. GILMAN) and a Member opposed each will control 5 minutes.

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

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

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

Mr. GILMAN. Mr. Chairman, I rise in support of this amendment which enhances the oversight role of Congress in the licensing of nuclear exports.

There is currently little to no congressional review of United States nuclear exports. Export licenses granted by the Nuclear Regulatory Commission are subject to advanced publication and the possibility for public comment, including a formal hearing. But there is no public transparency involved in these licenses granted by the Department of Energy.

More to the point, there is no role for congressional review of licensing decisions with regard to either agency except for subsequent arrangements for retransfers of nuclear fuel as outlined in section 131 of the Atomic Energy Act.

Accordingly, Mr. Chairman, this amendment establishes a process in law which is similar to that in existing law for the export of conventional arms. If the Congress has the right to review and potentially disapprove the sale of a grenade, then it should have the right to review and potentially disapprove the sale of a nuclear reactor.

Under this amendment, Mr. Chairman, the administration must submit a report to the Congress on proposed nuclear exports to certain countries. Those proposed exports include nuclear reactors or components, nuclear fuel or nuclear fuel components, or retransfer of such items in any technology transfer.

Once the appropriate committees in the Congress receive notice of the proposed export, they would have 30 calendar days to review the proposed sales and, if applicable, introduce and move through the Congress a resolution to disapprove the proposed sale.

Mr. Chairman, I would note that under the Arms Export Control Act, the Congress has never successfully enacted a resolution of disapproval over a President's objection to ban an arms sale. More importantly, however, is that under the AECA, and now under the procedures established by this amendment for nuclear exports, the Congress will have a mechanism to hold the appropriate executive branch agencies accountable for what exports are being approved. Such a formal mechanism would allow the Congress the ability to hold hearings and to gain information on proposed nuclear sales.

This amendment, Mr. Chairman, is purposely drawn to exclude nuclear exports to our Western European allies as well as other allied and friendly countries, including Japan, Australia and New Zealand. This amendment is also purposely drawn to exclude certain types of nuclear exports, including those requiring general licenses or general authorizations.

The purpose of narrowing the list of countries and the type of licenses that are captured under the amendment is to make certain that the Congress does not create an undue administrative burden on the executive branch or adversely affect our Nation's nuclear industry's ability to compete in a world market.

I fully recognize that there is a fundamental difference between a weapon and a nuclear reactor provided for the purposes of a civilian nuclear energy program. But, Mr. Chairman, there are real world examples in which U.S. nuclear technology has been provided for purportedly civilian nuclear programs but then diverted to military programs. I am thinking, of course, of India.

Mr. Chairman, I believe that this amendment will give us the ability to hold both China and Russia's feet to the fire with respect to their nuclear nonproliferation policies.

In the case of China, we want to make certain they do not backtrack on their pledge to halt new nuclear assistance to Iran, and that they maintain their commitments made pursuant to

the U.S. nuclear cooperation agreement.

And with regard to Russia, we want to make certain that they meet their commitments pursuant to their membership in the Nuclear Suppliers Group and we want to examine closely their continued assistance to the Iranian nuclear program.

Mr. Chairman, I would like to point out that, in my view, had there been any knowledge in the Congress of the possibility of a missile technology transfer to China as a result of satellite exports, those exports would have been denied. This amendment gives the Congress the ability to give the necessary congressional scrutiny to nuclear exports, particularly those which may be of a proliferation risk.

Accordingly, Mr. Chairman, I urge my colleagues to support this amendment. It is a vote for enhanced congressional review of U.S. nuclear exports.

Mr. PICKETT. Mr. Chairman, I rise in opposition to the gentleman's amendment.

I do agree with many of his concerns about nuclear proliferation. I think Congress does need sufficient information to be able to accomplish its oversight responsibilities, but I believe we already have that.

□ 1900

I am concerned about the unintended consequences of this amendment which will be contrary to our Nation's best interest. This amendment is unnecessary. Applications for licenses to export nuclear facilities, fuel and controlled nuclear technology are already required to be made public immediately upon filing with the Nuclear Regulatory Commission. We do not need to add another layer of bureaucracy and complexity to this process.

Non-OECD countries like Taiwan, Thailand and others are planning the construction of several nuclear power facilities over the next decade. U.S. companies are on the cutting edge of these technologies and would be strong competitors for this business. This is business that could run into billions of dollars during the next 25 years.

No other nation prohibits its nuclear equipment suppliers from selling to potential customers, including China. Unlike their counterparts designed in Russia, U.S. light-water reactors are at very little risk for nuclear proliferation, and our reactor designs are not conducive to the production of highly enriched uranium, plutonium and other weapons-grade materials. We as a nation can rest easier knowing that reactors built in these non-OECD countries are not producing weapons materials.

Mr. Chairman, I believe that that amendment is overkill, that it will add a layer of bureaucracy and unnecessary time-consuming requirements to our suppliers, and I would urge a vote in opposition to the Gilman amendment.

The CHAIRMAN. The time of gentleman from New York (Mr. GILMAN) has expired. The gentleman from Virginia (Mr. PICKETT) has 3 minutes remaining.

Mr. PICKETT. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I thank the gentleman for yielding me the time.

In studying this amendment, we find that, quite frankly, it is unnecessary and that under the Atomic Energy Act no export license can be granted unless the United States Government has already negotiated a nuclear cooperation agreement with the nation receiving the equipment or the technology.

These agreements are reviewed by the Congress before their implementation, thereby eliminating the need for further congressional review with each individual license. Changing licensing procedures would reward India, imposing new restrictions on peaceful nuclear trade, especially with China at this time. It would harm U.S. China relations and would perversely reward India for detonating its nuclear device and punish China for India's misdeeds.

New licensing procedures that institute greater delay and greater certainty will leave China and other potential markets like Brazil to view U.S. vendors as unreliable suppliers.

Mr. PICKETT. Mr. Chairman, we have no further speakers on this amendment, and I yield back the balance of our time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

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

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

The CHAIRMAN. Pursuant to House Resolution 441, further proceedings on the amendment offered by the gentleman from New York (Mr. GILMAN) will be postponed.

It is now in order to consider Amendment No. 20 printed in part D of House Report 105–544.

AMENDMENT NO. 20 OFFERED BY MR. HUNTER

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

The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 20 offered by Mr. HUNTER:

At the end of title VIII (page 199, after line 25), insert the following new sections:

SEC. 804. INCREASE IN MICRO-PURCHASE THRESHOLD.

(a) INCREASE IN THRESHOLD.—Subsection (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428(e)) is amended by striking out ''$2,500'' and inserting in lieu thereof ''$10,000''.

(b) EXEMPTION OF MICRO-PURCHASES FROM PROCUREMENT LAWS.—Subsection (b) of such section (41 U.S.C. 428(b)) is amended by striking ''to section 15(j)'' and all that follows through the end of such subsection and inserting in lieu thereof the following: ''any provision of law that sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that provides for criminal or civil penalties.''.

(c) DOMESTICALLY PRODUCED GOODS AND SERVICES.—In the implementation of the amendments made by this section through the Federal Acquisition Regulation (as required by section 32(e) of such Act), the Federal Acquisition Regulation shall require the head of each executive agency to ensure that procuring activities of that agency, in awarding a contract with a price not greater than the micro-purchase threshold, make every effort to purchase domestically produced goods and services.

(d) CONFORMING AMENDMENTS.—(1) Subsections (c) and (d) of such section (41 U.S.C. 428(c) and (d)) are each amended by striking ''$2,500'' and inserting in lieu thereof ''the micro-purchase threshold''.

(2) Section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) is amended by striking ''$2,500'' and inserting in lieu thereof ''the micro-purchase threshold (as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f))''.

SEC. 805. AUTHORITY FOR STATISTICAL SAMPLING TO VERIFY RECEIPT OF GOODS AND SERVICES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting at the end the following new section:

''§ 2410n. Statistical sampling procedures in the payment for goods and services

''(a) VERIFICATION AFTER PAYMENT.—Notwithstanding section 3324 of title 31, in making payments for goods or services, the Secretary may prescribe regulations that authorize verification, after payment, of receipt and acceptance of goods and services. Any such regulations shall prescribe the use of statistical sampling procedures for such verification. Such procedures shall be commensurate with the risk of loss to the Government.

''(b) PROTECTION OF PAYMENT OFFICIALS.—A disbursing or certifying official who carries out proper collection actions and relies on the procedures established pursuant to this section is not liable for losses to the Government resulting from the payment or certification of a voucher not audited specifically because of the use of such procedures.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 141 is amended by adding at the end the following new item:

''2410n. Statistical sampling procedures in the payment for goods and services.''.

MODIFICATION TO AMENDMENT NO. 20 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer a modification to my amendment at the desk, and I ask unanimous consent that my amendment be considered in accordance with this modification.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. HUNTER:

The amendment as modified is as follows:

At the end of title VIII (page 199, after line 25), insert the following new section:

SEC. 804. STUDY ON INCREASE IN MICRO-PURCHASE THRESHOLD.

(a) STUDY REQUIREMENT.—The Comptroller General, in consultation with the Administrator for Federal Procurement Policy, the Administrator of the Small Business Administration, and the Secretary of Defense, shall conduct a study to assess the impact of the current micro-purchase program and the advisability of increasing the micro-purchase

threshold under section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) to $10,000.

(b) MATTERS COVERED.—(1) The assessment of the impact of the current micro-purchase program shall be based on purchase activity under the micro-purchase threshold conducted during the two-year period beginning on February 10, 1996 (the date of the enactment of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106)). The assessment shall include, to the extent practicable—

(A) a general breakdown of the supplies, services, and construction purchased; and

(B) an evaluation of the rate of small business participation, economic concentration, and competition.

(2) The assessment of the advisability of increasing the micro-purchase threshold shall include a comparison of any adverse impact of an increased micro-purchase threshold (such as on small business participation) to benefits (such as cost savings, including administrative cost savings, savings from a reduced acquisition workforce and logistics structure, and reduction in acquisition lead time).

(c) REPORT.—Not later than 30 days after completion of the study, the Comptroller General shall submit a report on the results of the study to—

(1) the Committees on Armed Services and on Small Business of the Senate; and

(2) the Committees on National Security and on Small Business of the House of Representatives.

SEC. 805. AUTHORITY FOR STATISTICAL SAMPLING TO VERIFY RECEIPT OF GOODS AND SERVICES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting at the end the following new section:

''§ 2410n. Statistical sampling procedures in the payment for goods and services

''(a) VERIFICATION AFTER PAYMENT.—Notwithstanding section 3324 of title 31, in making payments for goods or services, the Secretary may prescribe regulations that authorize verification, after payment, of receipt and acceptance of goods and services. Any such regulations shall prescribe the use of statistical sampling procedures for such verification. Such procedures shall be commensurate with the risk of loss to the Government.

''(b) PROTECTION OF PAYMENT OFFICIALS.—A disbursing or certifying official who carries out proper collection actions and relies on the procedures established pursuant to this section is not liable for losses to the Government resulting from the payment or certification of a voucher not audited specifically because of the use of such procedures.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 141 is amended by adding at the end the following new item:

''2410n. Statistical sampling procedures in the payment for goods and services.''.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is simply a request for a study, and it is a study in an area where we are trying to make some headway in bringing the Department of Defense up to speed with domestic civilian practices; and, particularly, we are now undertaking a program whereby we use credit cards instead of lengthy contract orders to purchase items up to $2,500.

The Department of Defense and the Administration would like to move ahead and increase that limit from $2,500 to $10,000. There are a number of people in the small business community who have concern about that. They feel that there may be problems. They want to know what the impact is.

And so, we now have a modification to this amendment, which, for practical purposes, simply requests the GAO to study the issue and to give us what it believes to be the impacts on small business and also on savings that could accrue to the Department of Defense should we move that threshold from $2,500 to $10,000. That is the essence of the amendment.

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

Mr. SKELTON. Mr. Chairman, I ask unanimous consent to claim the time in opposition, as there is no Member opposing the amendment.

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

There was no objection.

Mr. SKELTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, I wonder if the gentleman from California (Mr. HUNTER) would be kind enough to engage in a bit of a dialogue with me.

I am sure that he would agree that the question of bundling contracts is of some concern to our small business constituents and friends, and I wonder if the gentleman could comment with respect to the study and the question of bundling contracts.

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

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

Mr. HUNTER. Mr. Chairman, there is concern. Because when we move to a credit card system, the government buyers are under an obligation to try to look at the entire market, the entire array of sellers to the best of their ability. They are required to try to be good purchasers, to get the best value. That means, in most cases, the lowest price. But not always.

And there is always a fear in the small business community that we are going to have a buyer who is going to choose their favorite seller, if you will, or their favorite company and simply move contracts that way. And so, small businesses are always concerned about this.

On the other side, sometimes we end up, because we have a very complicated system of contracting, we end up paying $500 for $100 desks after we have gone through all the competitions and all the things that attend that and, ultimately, write a fairly complicated contract.

So the idea is let us give our buyers for the small amounts for the small goods, let us assign them a certain element of discretion and presume that they are going to be honest and have good judgment, and that when they go down to buy office equipment and other things that come up under the $2,500 threshold, that they are going to use good judgment and that they are going to use the small business community in a practical way and they are going to spread these purchases around. And that means that we pay $100 for the $100 desk instead of $500.

So there is a certain fear on one side; and, on the other hand, there is a certain efficiency to be gained. So this simply asks the question and requires a study as to what the results will be.

Mr. ABERCROMBIE. Mr. Chairman, reclaiming my time, I appreciate that. But the intent here, and I guess I just want to make the intent clear for those who may be doing the study, the intent here is to also look at such questions of working something up so we get a series of $10,000 or 10,000 $100-contracts that could go to a fairly large corporation and cut out otherwise legitimate small business.

I know that is not the intent of the gentleman from California (Mr. HUNTER). But we do not want to have a study that ends up in that fashion.

Mr. HUNTER. Mr. Chairman, if the gentleman would further yield, first, this does not affect or change the ability of the government to bundle contracts. But we want the GAO to look at that also, the idea of loading up or bundling contracts.

Mr. SKELTON. Mr. Chairman, we have reviewed the amendment on this side, and we have no objection.

Mrs. MALONEY of New York. Mr. Chairman. I wish to commend the gentleman from California (Mr. HUNTER) for revising his amendment regarding the Micro-Purchase Threshold. I support his amendment to provide for a study of implementation of the Micro-Purchases procedures that were enacted as part of the Federal Acquisition Streamlining Act of 1994 (FASA).

During the consideration of FASA, the small business community had voiced deep concerns about the contracting procedures that applicable to Micro-Purchases, those purchases less than $2,500 in value. They could be awarded without any competition. Of even greater concern, Micro-Purchases were exempt from the long-established requirements of the Small Business Act that initially reserved small purchases for competition among small firms.

Purchases below the $2,500 Micro-Purchase Threshold also represented a very substantial pool of potential business highly suitable for small firms. Procurements below $2,500 are estimated to represent approximately 85% of the procurement actions each year, which totalled some $15 million in fiscal

year 1997. In dollar terms, procurement opportunities below $2,500 total approximately $4 billion.

The Department of Defense has been advocating increasing the Micro-Purchase Threshold. Such action should not be taken until we know the impact of Micro-Purchase procedures at the current $2,500 threshold. To do otherwise would do a disservice to the small business community.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 4 minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California (Mr. HUNTER).

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider the amendment offered by the gentleman from Mississippi (Mr. TAYLOR) considered as Amendment No. 39 printed in part D of House Report 105–544.

AMENDMENT NO. 39 OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 39 offered by Mr. TAYLOR of Mississippi:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. RANDOM DRUG TESTING OF DEPARTMENT OF DEFENSE EMPLOYEES.

(a) EXPANSION OF EXISTING PROGRAM.—(1) Chapter 81 of title 10, United States Code, is amended by inserting after section 1581 the following new section:

"§ 1582. Random testing of employees for use of illegal drugs

''(a) PROGRAM REQUIRED.—The Secretary of Defense shall expand the drug testing program required for civilian employees of the Department of Defense by Executive Order 12564 (51 Fed. Reg. 32889; September 15, 1986) to include the random testing on a controlled and monitored basis of all such employees for the use of illegal drugs.

''(b) TESTING PROCEDURES AND PERSONNEL ACTIONS.—The requirements of Executive Order 12564 regarding drug testing procedures and the personnel actions to be taken with respect to any employee who is found to use illegal drugs shall apply to the expanded drug testing program required by this section.

''(c) NOTIFICATION TO NEW EMPLOYEES.—The Secretary of Defense shall notify persons employed after the date of the enactment of this section that, as a condition of employment by the Department of Defense, the person may be required to submit to mandatory random drug testing under the expanded drug testing program required by this section.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1581 the following new item:

''1582. Random testing of employees for use of illegal drugs.''.

(b) FUNDING.—No additional funds are authorized to be appropriated on account of the amendment made by subsection (a). The Secretary of Defense shall carry out the expanded drug testing program for civilian employees of the Department of Defense under section 383 of title 10, United States Code, as added by subsection (a), using amounts otherwise provided for the program.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from Mississippi (Mr. TAYLOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as was pointed out in the recent dialogue with the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from Texas (Mr. REYES), there is a war on drugs going on, and our Nation is losing.

Mr. Chairman, the point that would I like to make with this amendment and the law that I would like to change with this amendment would allow our Department of Defense to test all of its employees for drugs and, in the future, tell future hires that, as a requirement of working for the Department of Defense, that they will submit to random drug testing.

In February, I went to Colombia, went to places like Ibague, went to places likes San Jose, where American pilots are flying crop dusters and being shot at by Colombian guerillas and Colombian narco-traffickers.

We have American A-teams on the ground in Colombia training the Colombian Lance Arrows, their word for Ranger. We have American Seals training their navy. We have Americans in Iquitos, Peru, right across the Amazon River, training their riverine operations. It is a real war. It is a real war with real casualties.

The week after I left Colombia, the Lance Arrows that I had the privilege of visiting went out, 125 of them. Eighteen of them returned. The remainder were either killed or captured.

The point I am trying to make is it does not make much sense to tell our uniformed personnel that work for the Department of Defense that they are subject to drug testing but the civilian who does almost the same job as a mechanic, as a technician who is working right next to him, is not.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I applaud the gentleman from Mississippi (Mr. TAYLOR) and will concur, and I intend to vote for his amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

□ 1915

(Mr. DEFAZIO asked and was given permission to speak out of order.)

TRAGEDY AT THURSTON HIGH SCHOOL IN SPRINGFIELD, OREGON

Mr. DEFAZIO. Mr. Chairman, a tragic event has occurred in my congressional district, in my hometown; and I am requesting a leave of absence for Friday and the balance of the week, as the eyes of the country turn toward my hometown of Springfield where, early this morning, a number of students at Thurston High School were shot by a fellow student.

Our hearts and prayers go out to the victims and their families. At this time, many, many questions remain about the circumstances of this horrible tragedy. But what we do know is that a terrible tragedy has occurred. I need to return to Oregon to be with my family and my community in this time of sorrow.

Mr. TAYLOR of Mississippi. Mr. Chairman, I ask unanimous consent to use the 5 minutes in opposition.

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

There was no objection.

The CHAIRMAN. The gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have a drug problem. As a State Senator of Mississippi, I am real proud of the fact that I helped pass the toughest drug law in America. In Mississippi, if you sell two ounces of cocaine, two ounces of heroin, 100 pills, 10 pounds of marijuana, in one sale or intent or a series of sales over the period of 1 year, you are caught and convicted, you spend the rest of your life in the Mississippi State Penitentiary.

But it is not enough, because we have this disconnect in our country where we say, if you are a dealer, you are bad; if but if you use it, it is okay.

I often wonder how many kids here on Capitol Hill use drugs. They work for our Nation. They should not. I would hope at some point during this Congress we will see to it that everyone who works for this Nation, as a requirement of working for this Nation, will subject themselves to drug tests.

But I cannot do that on this bill. I can, however, require that we take a step in that direction and say if you are going to work for our Nation's Department of Defense, if you are committing your life to defending our Nation or working to support those people who defend our Nation, you are not going to use drugs. You are not going to take your Federal paycheck and break the law and use illegal drugs. That is what we are asking to do.

I do not think there is any opposition to this. I want to thank the chairman for allowing this amendment to come to the floor. I want to thank our ranking member who went to bat with the Committee on Rules to see to it that this amendment was made in order.

I want to thank the Committee on Rules. I think they made a mistake

when they voted not to bring it to the floor, but they admitted their mistake and saw to it that it could be voted on. It takes a big man to admit he made a mistake.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. TAYLOR).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider the amendment of the gentleman from California (Mr. THOMAS) considered as amendment number 41 printed in part D of House Report 105–544.

AMENDMENT NO. 41 OFFERED BY MR. THOMAS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 41 made in order by an order of the House of May 21, 1998, offered by Mr. THOMAS:

At the end of title XXXIV (page 373, after line 2), insert the following new section:

SEC. 3408. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.

Section 3415(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note) is amended by striking out the first sentence and inserting in lieu thereof the following: ''Amounts in the contingent fund shall be available for paying a claim described in subsection (a) in accordance with the terms of, and the payment schedule contained in, the Settlement Agreement entered into between the State of California and the Department of Energy, dated October 11, 1996, and supplemented on December 10, 1997. The Secretary shall modify the Settlement Agreement to negate the requirements of the Settlement Agreement with respect to the request for and appropriation of funds.''.

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from California (Mr. THOMAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly do want to thank the chairman of the Committee on National Security and the ranking member, respectively the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON), first of all for their courtesy in allowing me to discuss the amendment at this time. Actually, I have to go back. The original genesis of this amendment is once again thanking them; only at that time they were known as the Armed Services Committee and the subcommittee that consists of the gentleman from Virginia (Mr. BATEMAN) and the gentleman from Virginia (Mr. SISISKY).

It involved the sale of the naval petroleum reserve known as Elk Hills. In 1974 President Ford ordered oil produced at this naval petroleum reserve at its maximum efficient rate. For more than two decades, oil was produced commercially, but it was a government-held property. We always wanted to try to sell it if it was going to be used to simply produce oil to sell. But as I was wont to say at one time, you can shear a sheep every year, and you can slaughter it only once.

It was producing more than $1 billion a year of revenue for more than a decade. But the gentleman from Virginia put together a sale and bidding procedure which not only succeeded in reaching the CBO's estimate of a $2.6 billion sale, but, in fact, sold for $3.65 billion.

One of the reasons we think it sold at that price was that a lien on land held by State teachers, given to the teachers during the land grant college period, and the tracts of land being incorporated in the Elk Hills area, they never received a penny off the land. It was a Federal Reserve. But when it was going to be released for sale, they certainly were going to claim a revenue stream from that land.

The solution put in the legislation in the then Armed Services bill was to take 9 percent of the sales price, whatever it was, and provide it to the State Teachers Retirement Fund. It was put in language that said pursuant to an appropriation.

Elk Hills has been sold, $3.65 billion. Almost $326 million is held in reserve to be doled out over the years. In the wisdom of a number of people around here, we came to the conclusion of why not just give it to them. The money is sitting there. There is no reason to dole it out. Certainly $1 billion more than was planned would cover the cost of moving these dollars.

So I am indebted, once again, to the now Committee on National Security for their willingness to accommodate the ability to pay the State teachers once out of a fund that is now reserved. That is the sum and substance of the amendment.

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

Mr. SKELTON. Mr. Chairman, as there is no Member to claim the time in opposition, I ask unanimous consent to claim the time.

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

There was no objection.

Mr. SKELTON. Mr. Chairman, I hereby yield back the balance of my time.

Mr. THOMAS. Mr. Chairman, after having once again thanked the Committee on National Security, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. THOMAS).

The amendment was agreed to.

AMENDMENT D–19 OFFERED BY MR. GILMAN.

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. GILMAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 9, not voting 19, as follows:

[Roll No. 181]

AYES—405

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek (FL)

Menendez	Rahall	Snyder
Metcalf	Ramstad	Solomon
Mica	Rangel	Souder
Millender-McDonald	Redmond	Spence
Miller (CA)	Regula	Stabenow
Miller (FL)	Reyes	Stark
Minge	Riggs	Stearns
Mink	Riley	Stenholm
Moakley	Rivers	Stokes
Mollohan	Rodriguez	Strickland
Moran (KS)	Roemer	Stump
Moran (VA)	Rogan	Stupak
Morella	Rogers	Sununu
Murtha	Rohrabacher	Talent
Myrick	Ros-Lehtinen	Tanner
Nadler	Rothman	Tauzin
Neal	Roukema	Taylor (MS)
Nethercutt	Roybal-Allard	Thomas
Neumann	Royce	Thompson
Ney	Rush	Thornberry
Northup	Ryun	Thune
Norwood	Sabo	Thurman
Nussle	Salmon	Tiahrt
Oberstar	Sanchez	Tierney
Obey	Sanders	Towns
Olver	Sandlin	Traficant
Ortiz	Sanford	Turner
Owens	Saxton	Upton
Packard	Scarborough	Velazquez
Pallone	Schaefer, Dan	Vento
Pappas	Schaffer, Bob	Visclosky
Pascrell	Schumer	Walsh
Pastor	Scott	Wamp
Paul	Sensenbrenner	Waters
Paxon	Serrano	Watkins
Payne	Sessions	Watt (NC)
Pease	Shadegg	Watts (OK)
Pelosi	Shaw	Waxman
Peterson (MN)	Shays	Weldon (FL)
Peterson (PA)	Sherman	Weldon (PA)
Petri	Shimkus	Weller
Pickering	Shuster	Wexler
Pitts	Sisisky	Weygand
Pombo	Skeen	White
Pomeroy	Slaughter	Whitfield
Porter	Smith (MI)	Wise
Portman	Smith (NJ)	Wolf
Poshard	Smith (OR)	Woolsey
Price (NC)	Smith (TX)	Wynn
Pryce (OH)	Smith, Adam	Young (AK)
Radanovich	Smith, Linda	Young (FL)
	Snowbarger	

NOES—9

Brown (CA)	Frank (MA)	Sawyer
Dooley	McIntyre	Skelton
Fazio	Pickett	Tauscher

NOT VOTING—19

Bateman	Johnson, Sam	Spratt
Blumenauer	McDade	Taylor (NC)
Coyne	Meeks (NY)	Torres
Dixon	Oxley	Wicker
Foley	Parker	Yates
Gonzalez	Quinn	
Harman	Skaggs	

□ 1942

Messrs. FAZIO of California, FRANK of Massachusetts and SAWYER changed their vote from ''aye'' to ''no.''

Messrs. SISISKY, ADAM SMITH of Washington and RANGEL and Mrs. CAPPS changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Ms. DEGETTE. Mr. Chairman, I rise today in opposition to H.R. 3616, the Department of Defense Authorization Act for FY 99, because it contains two egregious provisions which adversely affect women in the military—allowing gender segregated training and housing facilities, and banning access to health care clinics overseas for a full range of health care services.

However, I am in support of the bill's authorization of $655 million to aid in the cleanup and closure of the Rocky Flats nuclear site near Denver. This total represents an additional $40 million to President Clinton's request, and I commend the Committee on National Security for its vision and leadership on this important project.

Yet the provisions which attacks on the rights of women in the military are needless poison pills to this very important and necessary authorization bill. Every woman in America has a constitutional right to have an abortion. The anti-choice movement in Congress has been relentless in its effort to overturn this constitutional right. Additionally, segregating women from men will not improve discipline, training, or effectiveness. In times of war, women and men fight together, not separately. In fact, our military opposes this initiative, yet the House of Representatives has approved this unprecedented initiative.

Consequently, I oppose this legislation in its current form and I urge my colleagues to think about the message they are sending to all American women when they take away these rights of military women. I hope that the conference report will return to the House without these two meanspirited and harmful provisions.

Mr. HOYER. Mr. Chairman, I rise in support of this bill and would like to commend the work of both the Chairman, Mr. SPENCE and the Ranking Member, Mr. SKELTON. I believe the priorities which they have established in this bill are good for both our Nation and for our Nation's defense.

We are preparing to enter the 14th consecutive year of real decline in defense spending. I am one of those who believe that we cannot continue to put the military at risk. The funding constraints imposed by the balanced budget agreement make our choices more difficult. However, we still must ensure that other priorities do not drive us away from one of the primary responsibilities the Congress has, and that is ensuring for the Nation's defense.

We all realize that the United States holds a unique position in the world. People all over the globe look to us for security and stability. It may not be fair, but it is the reality. While our Military Forces are shrinking, operations around the world are increasing. The increased pace of peacekeeping, humanitarian relief, and other contingency operations is forcing our Armed Forces to do more with less. However, doing more with less is not always conducive with ensuring the long term readiness of our Armed Services. Our troops serving today in Bosnia are just one of the recent examples of our global leadership and responsibility. I continue to support our deployment of troops in Bosnia and believe the work they are accomplishing there makes America a better place and the world a safer one.

I say to both the Chairman and the Ranking Member that their priorities are right for our Nation, we need to stand up for those priorities and pursue them.

I support this bill to authorize $270 billion for critical defense needs in fiscal year 1999 and want to commend the committee for what is in the bill before us: a 3.6% military pay raise; the $2.7 billion for procurement of 27 FA–18 E/F's; $36.2 billion for continued research and development, which includes $456 million for the joint strike fighter; the continued support for the important mission of the special operations command; the $2 billion to purchase the second new attack submarine. The $285 million for 30 Blackhawk helicopters, 18 of which are for the Army National Guard; and the procurement of 8 V–22 Ospreys for the Marine Corps.

I also want to commend Chairman HEFLEY and Ranking Member ORTIZ for their work on authorizing $8.2 billion for military construction.

I commend the Committee for funding these DOD and Navy priorities and for addressing the needs of our men and women in the Armed Services.

Mr. QUINN. Mr. Chairman, although I am unable to cast my vote for this legislation, I am pleased to take this opportunity to voice my support for H.R. 3616, the Fiscal Year 1999 National Defense Authorization Act.

For the fourth consecutive year, the Department of Defense's modernization budget fell far short of the $60 billion that former Chairman of the Joint Chiefs General Shalikashvili testified the military needs each year to update its aging force. Even more disturbing is the continuing trend of budget requests for modernization that are billions less than they were forecast to be during the previous year.

The research and development situation in the United States military looks very bleak as well. Spending for research and development accounts are forecasted to fall by at least fourteen percent.

This year's overall budget request represents the lowest real level of U.S. defense spending since before the Korean War. Clearly, the practice of the United States military increasing its number of missions while resources decline will continue unless the defense budget is increased.

H.R. 3616, while consistent with the Balanced Budget Act, continues the 14-year trend of real decline in defense spending. I commend the National Security Committee for working within these constraints to focus the limited resources available on addressing readiness, quality of life, and modernization shortfalls. This bill provides the Department of Defense with some of the tools necessary to better recruit and retain quality personnel, better train them to the highest possible standards, and better equip them with advanced military technology while trying to provide for an improved quality of life.

The high pace of operations continues unabated with attendant negative impacts on military quality of life. America's military forces are under severe stress.

H.R. 3616 takes proactive measures to directly reduce the stress and would provide military personnel a 3.6 percent pay raise—.5 percent more than that requested in the budget—to halt the growing pay gap. In addition, the bill limits the Department of Defense's ability to accelerate military personnel cuts and add $74 million to help the Army maintain adequate manpower levels.

Among many other important provisions, the bill also would mandate that burial honors for all veterans be provided on request after October 1999 and increase funding for the National Guard Youth Challenge Program to $50 million.

Mr. CHAMBLISS. Mr. Chairman, I rise to congratulate Chairman SPENCE and Ranking Member SKELTON for bringing forward a good bill in a tough year. At a time when we are asking our armed services to do more with

less, this bill represents the most balanced approach to our military priorities.

I would like to take a few moments to highlight a few issues in this legislation that I have had the privilege to work on over the last several months.

F–22

I am very concerned about recent GAO recommendations that would have us further delay the F–22. This program has experienced too many delays and too many reductions in planned buy. Specifically, the GAO has expressed concern about lack of test hours conducted to date. The truth is this program is meeting or exceeding all performance targets set by the USAF, and the Air Force is fully satisfied with the quality of data derived from the test hours that have been conducted.

Furthermore, last year this Congress imposed a very restrictive, unprecedented cost cap on the contractor, a cap that set in stone the cost of this program over a planned buy of nearly 340 aircraft. I am pleased to report that the Air Force and contractor are meeting the terms of those caps while also meeting established performance requirements. Now is not the time to throw this program into further disarray.

I am also pleased to report that Raptor 01, our first test aircraft, flew again just two days ago at Edwards AFB. This fully successful flight lasted nearly two hours. The bottom line is that this bill provides for a fully funded program that is absolutely necessary to ensuring air dominance for our warfighters into the 21st century. I commend the Committee on its work in this area.

JSTARS

Over the last decade, DoD has well-established this nation's ground reconnaissance need. That need is translated into 19 fully operational JointSTARS aircraft. Today, DoD is ignoring that stated need for 19 aircraft, and it has stopped procurement at 13.

This bill makes a commitment for long-lead funding for 2 of the necessary 6 additional aircraft. In the area of intelligence, there is no room for compromise. There is no substitute. And the bottom line is that JSTARS is absolutely necessary to meeting our land reconnaissance needs in the 21st century.

MWR

Morale, Welfare and Recreation is an issue that does not receive much attention in such a massive bill, but one that is very important to our troops in the field—it relates to their quality of life.

I am proud of the good work in this bill, under the leadership of Chairman MCHUGH, work that will translate directly into a better standard of living for our men and women in the armed services.

Tough decisions were made, decisions that require we balance many interests, but decisions that ultimately must weigh heavily in favor of the military men and women who have committed themselves to us.

Specifically, the Panel authorized the expansion of commissary benefits to Reserves from 12 to 24 days. Today we are asking more and more of our guard and reserve forces. It is only fair that they are more integrated into our military community, which includes increased access to the ''military benefit.''

In addition, the Panel worked hard to protect the military resale system. Notwithstanding the hard work of DoD, the Panel remains concerned about unsupported initiatives that may do more harm than good to our resale system.

Finally, I am pleased to report that the Panel recommended a provision that will require that DoD privately contract for a survey of military resale consumers to determine their preferences on key issues facing the resale system. A key item to be surveyed is the desirability of the availability of beer and wine products in military commissary stores. The Panel authorized such sale by DoD. It is the opinion of many members of the Panel that convenience to the military consumer must come first. I look forward to the results of such a survey.

PAY RAISE

Last, but not least, I am proud to observe that this bill includes a 3.6 percent pay raise for our military members. We must invest in our military and continue to draw the most talented young people in our nation. Today we face very serious recruiting and retention issues in all of our services. It is my hope that this pay raise will begin to show our commitment to the hard work our military does every day.

MORE FUNDING

Mr. Chairman, we have done the best with what we have been given. However, it is not enough. The world continues to be a dangerous place, and recent developments in India and Pakistan bring this point home. As Chairman WELDON often notes, we are facing a train wreck around 2001 and 2002—a train wreck that will require tradeoffs that will not be in the national security interest of this nation. We must have more resources, as we must never grow complacent with our role as the world's superpower. I vow to work together with my colleagues to continue to press for adequate funding of our military priorities. Until that day, I am pleased to report that this bill is a fair balance of our priorities.

Mr. GREENWOOD. Mr. Chairman, I rise today in support of the FY 1999 Defense Authorization Act and in appreciation of the inclusion of a provision, brought to my attention by my constituent, Mr. James Biscardi of Quakertown, Pennsylvania. Without his continued dedication, the men of the Navy Armed Guard, who served with honor, dignity, and courage, would still be awaiting their deserved congressional recognitioin.

In the beginning of the 104th Congress, Mr. Biscardi, a true American Patriot, contacted my office seeking recognitioin for those who served in the Navy Armed Guard. By working with him, I drafted legislation, now part of the FY 1999 Defense Authorization Act, that recognizes the outstanding service of the members of the Armed Guard during World Wars I and II and thanks the surviving crewmen of the Armed Guard for their service.

The Armed Guard was created as a branch of the United States Navy during World War I to protect the merchant ships of the United States by maintaining weapons on 384 merchant ships. During World War II, the Armed Guard was reactivated as a response to the German strategy of attacking and sinking merchant ships, even those of neutral countries, which appeared to be bringing goods to the Allied Nations in Europe. Over 144,900 men served in the Armed Guard on 6,236 merchant ships during World War II. Nearly 2,000 of these men made the supreme sacrifice, and gave their lives in defense of their country.

The dedication of, and sacrifices made, by the men of the Armed Guard deserve the recognition and gratitude of the United States. Through the passage of the Defense Authorization bill, the United States Congress will be acknowledging the outstanding service of the 144,970 men who served in the Armed Guard during World War II, and the men who served in World War I. These men have earned a heartfelt thanks from the country that they so gallantly fought to protect.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, pursuant to House Resolution 441, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on 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.

☐ 1945

MOTION TO RECOMMIT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). Is the gentleman opposed to the bill?

Mr. FRANK of Massachusetts. Yes, Mr. Speaker.

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

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the bill be recommitted to the Committee on National Security with instructions to report it back forthwith with the following amendment:

At the end of title XII (page , after line), insert the following new section:

SEC. . WITHDRAWAL OF UNITED STATES ARMED FORCES FROM THE REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) LIMITATION.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1999 may be used for the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina after December 31, 1998, unless a law has been enacted that explicitly authorizes the deployment of such Armed Forces.

(b) EXCEPTIONS.—The limitation contained in subsection (a) shall not apply with respect to—

(1) the deployment of United States Armed Forces for the express purpose of ensuring

the safe withdrawal of such Armed Forces from the Republic of Bosnia and Herzegovina;

(2) a limited number of members of United States Armed Forces sufficient only to protect United States diplomatic facilities and citizens; or

(3) noncombatant personnel to advise the North Atlantic Treaty Organization (NATO) Commander in the Republic of Bosnia and Herzegovina.

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

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. SPENCE) reserves a point of order.

The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I apologize to the House for intruding at this late date, but it did seem to me, having the elected representatives of the American people vote on whether or not American ground troops ought to stay in Bosnia until infinity was a reasonable use of about 20 minutes.

It is not ideal to do it this way, but the gentleman from California (Mr. CAMPBELL), the gentleman from California (Mr. CONDIT), the gentleman from Ohio (Mr. KASICH), the gentleman from Tennessee (Mr. HILLEARY), the gentleman from New York (Mr. SERRANO) and I submitted this germane amendment in a timely fashion to the Committee on Rules and we were told we could not debate it. My colleagues may not realize how important the issues have been that we have been dealing with, because they were so important, the ones we have been debating for the last couple of days, that we did not have a chance to vote on Bosnia.

We are told that we are spread too thin. A number of Members have complained of the President's dispensing the troops to Bosnia. Being heard here today is important, because a lot of Members here have been heard on the subject of Bosnia. I am delighted to give them a chance to put their voting cards where their mouths have been.

We are here faced with an amendment that says the troops have to leave by December 31. That is plenty of time. It does allow for troops afterwards, if they are needed, to pull out in an orderly fashion. This is a correctly drawn amendment by the gentleman from California. It even says, because we were told, well, later we will come in with the right conditions. This amendment says, if a subsequent bill comes forward, then that will cover it. All this says is, we will not by silence acquiesce in the indefinite extension of that mission.

This is not Mission Creep, this is Mission Rush. This is Mission Hurdle, and we are all allowing it to happen if we do not vote for this.

Now, I believe it was a good thing that the world, and the U.S. leading, stopped people from killing each other in Bosnia. The fight has been broken up; we have stopped the killing. We have a relatively easy military mission, I think. It is to keep the combatants apart.

Now, Bosnia is very close to the following countries: Germany, France, Italy, England, the Scandinavian countries, the Benelux countries. They are members of a vestigial organization known as NATO. We are giving NATO a chance to mean something. The U.S. carries the burden in South Korea; the U.S. carries the burden in Iraq. Is it never to be time for Europe to do something on their own? Can Europe never be expected by us to do this? It is a relatively small thing: Keep the troops in this police action to separate people.

Members just voted, I did not vote, but Members just voted to put American troops on the border. Well, where are they going to come from? Maybe we can take them from Bosnia. We are told we have to have troops in Europe because they are our allies. Well, if that is the case, if we show we are allies by having troops in each other's countries, are we sending for Dutch troops to control the Mexican border to deal with drugs? Can we expect some French troops to help us implement the Traficant amendment? We cannot keep voting for more and more and not sometimes say no. If we do not believe the European troops are capable of maintaining the peace in Bosnia on their own, then let us stop pretending that there is anything but a unilateral American presence.

This amendment is a chance for Members to vote to say, and we will save, by the way, $2 billion. In the supplemental we asked for $162 million a month, Pentagon calculation. That is the incremental cost of keeping the troops in Bosnia. So we can save $2 billion on the defense bill, we can inconvenience our European allies by asking them to increase their forces, and we can be consistent if we have said we are for pulling the troops out of Bosnia, and I have to say to my Republican colleagues, you have been fighting the President all over the place. You have been whacking him and hitting him and smacking him. This is something he cares about. They have the troops in Bosnia, you have been shadow boxing and dancing and creating and melting snowmen. You have been taking care of China and you have been taking care of this and that. Here it is.

The chairman of the Committee on Rules said he could not allow this amendment because the President told him not to. Well, the President cannot control the vote on a motion to recommit, so if you want to show that you believe in the constitutional function of Congress, you can vote for it.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Speaker, I appreciate the gentleman yielding, and I will only take a moment to say that the gentleman in the well is expressing about the most important prerogative that a Member of the House of Representatives can express. The Constitution makes it imperative that we vote to go to war, that it not be done by a President, that it be done by the people's representatives. When we send soldiers and sailors and air personnel to die overseas, they must know it is with the approval of the people's representatives in this House.

I applaud the gentleman for his courage and I ask for an ''aye'' vote.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of the time, but I hope I do not yield back the prerogatives of this House.

Mr. SPENCE. Mr. Speaker, I withdraw my point of order, and I claim the time in opposition to the motion.

Mr. Speaker, I yield to the gentleman from Indiana (Mr. BUYER).

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

Let us stop and pause for a moment in where we are. This is a motion to recommit saying we are going to tell the President of the United States that he has to bring the troops home and we have to do it now. I have been before this body and I have stood here and I have offered amendments in the past with the gentleman from Missouri (Mr. SKELTON) and the gentleman from Pennsylvania (Mr. MCHALE). I did not like how we went into the Dayton Accords, but let us stop and think about where we are right now.

Has the mission been successful? It has. Have we completely and always agreed? No, we have not. I gave a commitment to the President, I said I would no longer be your critic, I will be your constructive critic, and this is not about politics, because it could be in the year 2000 we could have a Republican President and we are going to inherit Bosnia and there are going to be troops that are going to be in Bosnia, because I firmly believe those troops are still going to be in Bosnia. The key is, how do we slowly bring those troops home so we then have a commitment to an enduring peace in Bosnia? That is what this is about, an enduring peace in Bosnia.

Do not get consumed by this by saying, oh, this has got to be about the troops, bringing the troops home. If we believe in the commitment toward peace, if we really believe in that, this is also about NATO and our relationship with our NATO allies. Oh, I also want NATO to carry; actually, I want our European allies to carry a greater burden in the peace and the stability of the continent of Europe.

But right now, where are we right now? This is not a wise thing to do. The gentleman from Nebraska (Mr. BEREUTER) of the Committee on International Relations and myself are working on a resolution, along with the administration. When the President of the United States said that what we are going to do is we are going to set very real benchmarks for success in the civil implementation of Bosnia,

what is key is that we make sure that the benchmarks of success are realistic, they are viable, and that they are pragmatic.

What we are going to do is, and we put this into resolution form, we want to come here to this body so that everyone has a comfort level with regard to the benchmarks of success, because I do not want, nor do my colleagues want troops in Bosnia for a very long time, and what is unfortunate is they may be there because of the parameters that were set out in the predicate of the Dayton Accords that may require generation secure.

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

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

Mr. SKELTON. Mr. Speaker, I rise in opposition to this.

We debated this fully this past March. With the gentleman in the well I had an amendment that opposed the initial placing of troops in Bosnia for the simple reason that there was army and training that should not have taken place. That has been a success. This is not the right message to send to the troops, it is not the right message to send to our allies who, by the way, furnish 75 percent of the troops there, and by the way, provide 85 percent of the reconstruction assistance. I think we should vote this down and pass this bill.

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

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

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

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

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair 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—ayes 167, noes 251, not voting 15, as follows:

[Roll No. 182]

AYES—167

Archer
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bilbray
Bilirakis
Blunt
Bonilla
Brady (TX)
Brown (CA)
Bryant
Bunning
Burton
Camp
Campbell
Canady
Cannon
Chabot
Chenoweth
Christensen
Coble
Coburn
Combest
Condit
Conyers
Cook
Costello
Crane
Crapo
Cubin
Danner
Davis (IL)
Deal
DeFazio
Doggett
Duncan
Emerson
English
Ensign
Ewing
Farr
Filner
Forbes
Fox
Frank (MA)
Franks (NJ)
Furse
Ganske
Gibbons
Gillmor
Goode
Goodlatte
Graham
Granger
Green
Greenwood
Gutierrez
Hall (TX)
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hooley
Hulshof
Hutchinson
Inglis
Istook
Jackson (IL)
Johnson (CT)
Kaptur
Kasich
Kelly
Kingston
Klug
LaHood
Largent
Latham
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas
Manzullo
McCollum
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Mink
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Owens
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Poshard
Pryce (OH)
Ramstad
Rangel
Regula
Roemer
Rogers
Rohrabacher
Roukema
Royce
Rush
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shays
Shimkus
Smith (MI)
Smith (TX)
Snowbarger
Souder
Stark
Stearns
Stokes
Stump
Sununu
Talent
Thomas
Thornberry
Thune
Tiahrt
Tierney
Towns
Traficant
Upton
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (PA)
Weller
Whitfield
Woolsey
Young (AK)

NOES—251

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Buyer
Callahan
Calvert
Capps
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Cooksey
Cox
Coyne
Cramer
Cummings
Cunningham
Davis (FL)
Davis (VA)
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Everett
Fattah
Fawell
Fazio
Ford
Fossella
Fowler
Frelinghuysen
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gilman
Goodling
Gordon
Goss
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Livingston
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Portman
Price (NC)
Radanovich
Rahall
Redmond
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Ros-Lehtinen
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Shadegg
Shaw
Sherman
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spence
Stabenow
Stenholm
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thurman
Turner
Velazquez
Vento
Visclosky
Walsh
Waxman
Weldon (FL)
Wexler
Weygand
White
Wise
Wolf
Wynn
Young (FL)

NOT VOTING—15

Bateman
Foley
Gonzalez
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Skaggs
Spratt
Taylor (NC)
Torres
Wicker
Yates

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Mrs. EMERSON and Messrs. NETHERCUTT, SNOWBARGER, MCKEON and HUTCHINSON changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). 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. SPENCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 357, noes 60, not voting 16, as follows:

[Roll No. 183]

AYES—357

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Crane
Crapo
Cubin
Cummings
Cunningham
Danner

Davis (FL)
Davis (VA)
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Forbes
Ford
Fossella
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
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Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—60

Barrett (WI)
Becerra
Bonior
Brown (CA)
Brown (OH)
Campbell
Conyers
Cramer
Davis (IL)
DeFazio
DeGette
Delahunt
Doggett
Ehlers
Engel
Eshoo
Filner
Frank (MA)
Franks (NJ)
Furse
Gutierrez
Hinchey
Hoekstra
Hooley
Jackson (IL)
Kind (WI)
Kucinich
Lee
Lofgren
Lowey
Luther
Markey
McCarthy (MO)
McDermott
McGovern
McKinney
Miller (CA)
Minge
Morella
Nadler
Oberstar
Obey
Owens
Paul
Payne
Petri
Rahall
Rivers
Roybal-Allard
Royce
Rush
Sanders
Sensenbrenner
Serrano
Shays
Slaughter
Stark
Velazquez
Vento
Woolsey

NOT VOTING—16

Bateman
Foley
Gonzalez
Goodling
Harman
Johnson, Sam
McDade
Meeks (NY)
Parker
Quinn
Skaggs
Spratt
Taylor (NC)
Torres
Wicker
Yates

☐ 2021

The Clerk announced the following pair:

On this vote:

Mr. Quinn for, with Mr. Yates against.

So the bill was passed.

The result of the vote was announced as above recorded.

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

''A bill to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.''.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3616, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

GENERAL LEAVE

Mr. SPENCE. 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. 3616, the bill just passed.

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

There was no objection.

MOTION TO INSTRUCT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998 OFFERED BY MR. MINGE

Mr. MINGE. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. MINGE moves the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R 2400, be instructed to ensure that spending for highways and transit programs authorized in the conference agreement on H.R. 2400 is fully paid for using estimates of the Congressional Budget Office, to reject the use of estimates from any other source, to reject any method of budgeting that departs from the budget enforcement principles currently in effect, or the use of the budget surplus to pay for spending on highways or transit programs.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Minnesota (Mr. MINGE) will be recognized for 30 minutes, and a Member in opposition will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. MINGE).

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

Mr. Speaker, the transportation bill that is pending before the conference committee exceeds what was in the balanced budget agreement of 1997. It exceeds what is in the Senate budget resolution. It exceeds what is in the pending House budget resolution. It is clear that we have a budget busting bill that is coming out of the conference committee.

Mr. Speaker, it is clear that the conferees have a very heavy burden of identifying offsets that would make this particular transportation bill fit within any type of reasonable budget process. In this context, it is becoming clear that the conferees are sorely tempted to use a process called directed scoring.

This body has established a tradition of referring to the Congressional Budget Office to determine the cost of programs that are proposed, to determine the cost of offsets that are proposed, to provide guidance to this body. The Congressional Budget Office, over the years, has earned the reputation of being bipartisan, actually of being nonpartisan. The Congressional Budget Office, if it had been listened to, 10, 15 years ago, would have provided us with the guidance that would have avoided the tremendous deficits that we incurred in the 1980s and the early 1990s. Tragically, we did not listen to the Congressional Budget Office.

The question that we now face is, should we depart from this honored principle, should we disregard the rules and the traditions of this body and simply pick and choose?

Mr. Speaker, the tradition that is so well established and the rules that are so well established are ones that we should continue to observe. If we are to allow the conferees to simply determine what particular scoring agency or

entity provides the most favorable figure and then use that figure in a conference report, we will essentially have gutted the responsibility that we have to the American people to make sure that we comply with the budget principles that are so important in this country. We have come close to balancing the budget in 1998. All we are doing is using the Social Security Trust Fund that appears to keep us in the black.

□ 2030

At this point I almost feel like I need to start again. But the point that I am trying to make is that cherrypicking in scoring is an abhorrent practice and it is one that we should not allow to be established, and it is one that we should instruct the conferees to not use in connection with the transportation bill.

The precise way in which this appears to be unfolding here in mid-May is that the Veterans Administration, the Department of Veterans Affairs, has, by a ruling of an administrative law judge, an obligation to cover the cost of health care for veterans that have illnesses related to smoking or tobacco use. The Office of Management and Budget has apparently estimated that it will cost $17 billion to provide that health care. The Congressional Budget Office has estimated it will cost $10 billion.

The question is should we allow the conferees to pick and choose what agency's scoring will be used in connection with the conference report. Seven billion dollars, in a sense, is hanging in the balance here. Seven billion dollars that may well be added to the deficit; or $7 billion that would be added to this Nation's debt; or $7 billion that we would not have available for Social Security reform; or, ultimately, $7 billion that might have to be sequestered from other programs.

It is not responsible, Mr. Speaker, for us, as a body, to engage in any picking and choosing of who is to be doing the scoring in connection with our offsets. We have an agency that we have established. Let us use that agency. That agency is the Congressional Budget Office.

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

The SPEAKER pro tempore. Does the gentleman from Texas (Mr. DELAY) seek the time in opposition for the majority party?

Mr. DELAY. I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DELAY) is recognized for 30 minutes.

Mr. DELAY. Mr. Speaker, I rise in opposition to this motion to instruct, and I am instructed that the conferees, who would like to be out here to debate against this motion to instruct, but they are hard at work in the conference in order to turn out an excellent highway bill, but I am instructed to tell the House that the Committee on Transportation and Infrastructure is against this motion to instruct.

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

Mr. MINGE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Speaker, 2 years ago this Chamber was filled with people, people fighting over whether we should be using Congressional Budget Office numbers or GAO numbers. And the people on the majority side of the aisle said we cannot trust those numbers. We cannot trust those numbers. We have to go with the Congressional Budget Office numbers. And that was the agreement that was reached. The administration agreed to that, the parties on this side agreed to that, because we felt that it continued the fiscal integrity that had been established by the Congressional Budget Office.

Today, the concern is cherrypicking. The concern today is whether the conferees are going to pick and choose which budget estimates they like the most. And this is a real world concern, as the gentleman from Minnesota indicated, because $7 billion hangs in the balance. If we use the GAO numbers, we are looking at $17 billion. If we use the Congressional Budget Office numbers, we are looking at $10 billion.

If we are going to be truthful with the American people, and if we are going to keep this process as pure as it should be, we have to use consistent numbers. It is wrong for us to shop around to try to find the best price and stick it in at that point.

So I am proud to stand with the gentleman from Minnesota, because I think he is basically trying to come forward with some truth in budgeting. And I think it is important for us to retain the integrity of the process. So I would urge all my colleagues to support the gentleman's motion.

Mr. MINGE. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I am somewhat surprised that the Republican leadership would want to take credit for cutting $17 billion out of veterans' health care programs rather than just cutting $10 billion. But I presume if they want to take credit for cutting those veterans' benefits, despite the opposition of every major national veterans organization, then they can have that credit.

Mr. Speaker, the principle behind the Minge motion is very simple. It says, first, if Congress is going to increase spending for new programs, it should pay for it with cuts in other programs. Second, the Minge motion says Congress should use honest numbers, honest numbers in budgeting.

I would hope that every Member of Congress who has claimed to be a fiscal conservative will vote for this motion. I would like to see bipartisan support for it.

The first point, paying for new spending with other budget cuts, is certainly not a new idea. Every Member who voted, Republican and Democrat alike, who voted for the 5-year Balanced Budget Act just 9 months ago in this body, in this Chamber, has already gone on record saying new spending should be paid for, not passed on to our children and grandchildren as an increase in the national debt.

The second point to the Minge motion, using honest budget numbers, is something my Republican colleagues have strongly embraced in the past. Specifically, Republican House Members up to now have argued that the Congressional Budget Office numbers should be used to ensure, in their terms, honest budgeting.

In light of numerous Republican floor speeches in 1995, when many House Republicans were even willing to shut down the Federal Government over the principle of using CBO numbers, it would be surprising today if that principle should now be abandoned in the name of cutting veterans' programs, health care programs, more deeply, or in the name of increasing Federal spending by $7 billion.

It seems to me, Mr. Speaker, if a principle is good enough to justify shutting down the Federal Government, with all the harm that caused just 3 years ago, then surely that same principle should be worth voting for today in the Minge motion.

Let me use not my words but the words of Republicans on the floor of this House just a few years ago about the important principle that the gentleman from Minnesota (Mr. MINGE) is showing today.

Speaker Gingrich said, ''All the President has to do,'' and then went on to finish by saying, ''is to commit to a 7-year balanced budget with honest numbers and an honest scoring system,'' referring to the CBO numbers.

The gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules, said, on November 20, 1995, in this House:

> There is no wiggle room there, ladies and gentlemen. We will do it with 7 years, as estimated by the Congressional Budget Office. There is no wiggle room there. No smoke and mirrors. We will do it with realistic figures.

Seems to me if smoke and mirrors were a bad habit in 1995 they are a bad habit in 1998.

Let us go on to see what other Republican Members of the House said about using CBO numbers.

The gentleman from Oklahoma (Mr. LARGENT), my friend and colleague, a strong fiscal conservative, said:

> I also rise in favor of the concurrent resolution that says we will balance the budget in 7 years, that we will use honest numbers.

The Congressional Budget Office numbers are what he was referring to.

And finally, let me just mention another Republican statement from December 20 of 1995 made in the well of this House. The gentleman from Michigan (Mr. UPTON) said:

> I believe a lot of Members on that side want a balanced budget, too. They want it honestly scored, and that means by the Congressional Budget Office. We are tired of smoke and mirrors and phony numbers.

Yet phony numbers are what this House will endorse if it votes against the Minge motion.

Mr. Speaker, quite frankly, from my political perspective as a Democrat, it would probably help me more if most Republicans vote against the Minge motion. Such a vote would show the increasingly restless core Republican voters that the Republican leadership in this House has turned its back on principles such as fiscal responsibility and using honest budget numbers that seemed so terribly important just 36 months ago. If these core principles were the Republican justification for shutting down the Federal Government in 1995, then surely those principles should be worth supporting in the few minutes ahead.

Because, though, I believe that the policy of fiscal responsibility in this highway bill is more important than its politics, frankly, I hope that Republicans will stick with their past principles and join Democrats in supporting the Minge motion.

Mr. Speaker, this highway bill is the first major test of the 5-year, 5-year, balanced budget agreement signed just 9 months ago. If we fail to be fiscally responsible in this, our first major test of the budget agreement, then the so-called 5-year Balanced Budget Act should be renamed the 9–Month Budget Act, or perhaps even the ''We Really Didn't Mean It Budget Act''.

Any Member who supported the Balanced Budget Act or has spoken of ''honest budgeting'' can show their constituents this evening they mean what they say by voting for the Minge motion.

Mr. MINGE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Minnesota (Mr. MINGE) has 17 minutes remaining.

Mr. MINGE. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I thank the gentleman from Minnesota for yielding me this time. I wish there was a little more attention being paid to this motion to instruct.

As one that spent a good part of my congressional career striving for a balanced budget, I am rather happy to see that for the first time in years we have a surplus. Too many people, though, are ignoring that we have a surplus because of the Social Security trust fund surplus for this year.

Any dollars that we spend over and above the balanced budget agreement of last year are going to eventually come from Social Security. Let no one be deceived or deceive anyone with their vote on any bill that exceeds that which we agreed to in the balanced budget agreement.

We have spent a lot of time fussing over the last several years about whose scoring is going to be used. It is, well, I do not want to use the word amazing, it is rather alarming and disturbing that all of a sudden it seems that the majority that have spent a good part of their time criticizing OMB suddenly are willing to cherrypick a number that suits the current needs that will borrow an additional $7 billion from the Social Security trust fund to pass a highway construction bill. And I am not opposed to the highway construction bill, except that portion which busts the budget.

I think we are soon going to find, even though I hear that the budget that is going to be submitted after we come back after Memorial Day, 2 months late, is not going to talk about specifics. Once again, Members of this body are going to get to vote for principles, numbers.

If we are really truly wanting to keep our country on a fiscally sound direction, this motion to instruct should not just pass here on the floor but our conferees, who are working, as the majority whip said, as we speak, they ought to be listening to this and they ought to be already doing that which we are asking them to do: Use CBO scoring.

If it was reason enough to shut the government down in a dispute with the President a couple of years ago, how can it be tonight that we suddenly say it does not matter anymore? If it was so much of a principle for us to stand on, and I disagreed with the tactic of shutting the government down, but I agreed with the principle that we should use CBO scoring. And now all of a sudden are we just going to wink and nod and convince the people that we are doing budget responsible things? I hope not.

We have a surplus this year. We are going to have a surplus next year. It is because the economy is performing. It is because somebody out there in the marketplace believes that something of what we have been doing over the last 5 years is working. We have 5 consecutive years of a deficit coming down. Five consecutive years. We are in the black this year.

But how long will we be in the black, particularly if we start going against the very principles that we have agreed unanimously, unanimously, last year, that when it comes to scoring various bills we are going to use CBO scoring?

□ 2045

If we cherry-pick $7 billion, and I have got my concerns about the utilization of veterans' funding for purposes of paying for this bill, very big concerns. And a lot of other Members are going to have their concerns. Because if we have $10 billion in the veterans area, we should spend that on improving veterans' health care, not on some other purpose. Because we have tremendous need, as we almost had a unanimous vote this afternoon on the defense authorization bill.

But I conclude by saying this: This motion will hold the conference committee to the standard that this Congress and the President unanimously agreed to as part of the budget agreement. If we could unanimously agree to this last year, how can we change our mind? For what convenient purpose can we do it tonight?

I urge an aye vote for the motion to instruct. But, more importantly than that, I encourage our conferees, who are meeting to do it without us instructing them to do it, to do it. Because that is what every one of my colleagues conferring on this bill agreed last year that they were going to do. Do it for that purpose, if for no other reason.

Mr. MINGE. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, the issue that the gentleman from Minnesota (Mr. MINGE) raises tonight is a very simple one. It is one with which many Members on both sides of the aisle are familiar. It is an issue that dominated American politics for most of the last decade. The issue is phoney numbers.

David Stockman, when he directed President Reagan's Office of Management and Budget, called it the ''magic asterisk.'' It involves the ability of budget analysts to show that virtually any spending proposal is budget neutral if they are willing to make the right assumptions.

Now, the Congressional Budget Office is supposed to decide what proposals that are offered by various Members and various committees will actually cost or save. The game that is presently being played on the highway bill is to simply say that the Congressional Budget Office just does not understand that the savings that the Congress will get from disallowing certain veterans from receiving health benefits that they are now entitled to will be much greater than their analysts estimate. The committee is, in essence, saying that CBO has it all wrong and that we have to use another estimate.

At the same time, the conferees are trying to argue CBO just does not understand that the outlays that will occur from the highway bill are much lower than the CBO estimate, so they have got it all wrong; and, so, we are supposed to use another estimate.

Well, Mr. Speaker, I do not have any particular hang-up about whether CBO or OMB numbers are used. I think that the goal ought to be to determine who is the most accurate and what is the most real. It is clear that that is not what is happening in this case.

What is happening in this case is that the conferees, apparently, are looking for ways to spend almost an extra $10 billion without admitting that they are spending it. So they are simply rejiggering the estimates of the spending regs in order to make that happen.

Well, I would say that there is little question that these numerical manipulations have been cleared by the majority party leadership on both sides of the Capitol and that virtually any number that will help sell the highway bill is going to be deemed acceptable.

This is the same leadership, as I understand it, that repeatedly shut down the Federal Government over the sanctity of CBO scoring just 2½ years ago.

On November 15, 1995, the gentleman from Georgia (Mr. GINGRICH) took the floor and said, ''We do not ask you to agree to anything but two principles, that the budget will be balanced in 7 years and that the scoring will be honest numbers based on the Congressional Budget Office.''

The gentleman from Pennsylvania (Mr. SHUSTER) himself told the Congress in 1971, ''So we should support our Congressional Budget Office, a bipartisan office. We should not rely on OMB's figures. Because certainly in the past they have been very, very unreliable.''

But that was before the Republican leadership had the opportunity to hand out $9 billion in special projects. So I guess, with that kind of opportunity, we may decide not to be quite so picky about their facts. And so, we have a new set of principles that apparently are going to be applied. We will always use the CBO unless using estimates from another source helps us to pass bills which we want to push through.

Well, Mr. Speaker, this is not a budget process. This is not discipline. There is no limit to how far that approach can take us in balancing revenues that outlays on paper even if they will not do it in the real world. We can buy anything we want as long as we can find a friendly estimator, and that is what is happening here tonight.

So if we are going to throw the budget process overboard, it seems to me we should not do so selectively and maintain the false pretense that we are still maintaining discipline. If we are going to do that, then perhaps we should plan to eliminate the $26 million we are planning to spend on the Congressional Budget Office, period. At least that would be a real offset to the billions of deficit spending contained in the present version of the highway bill.

So I would simply urge, Mr. Speaker, we adopt the Minge amendment in the interest of honesty and budgeting.

Mr. MINGE. Mr. Speaker, I yield myself the time remaining to summarize the position in the debate.

As has just been pointed out, Members of this body on both sides of the aisle have held the Congressional Budget Office in high esteem. It is particularly important to note that the Republicans in this body have said that it is virtually worth dying for as a political principle.

We have shut the Government down over the question of whether we would use the CBO scoring or use estimates from some other source. And now to say that that principle is no longer worth even participating in a debate is amazing.

The Honorable Chairman of the Committee on Transportation and Infrastructure himself has noted on a prior occasion in 1991 that, at that time, it was a fight between OMB downtown and the Congressional Budget Office, and I am quoting: ''Now we must remember that OMB downtown is that same wonderful organization that gave us a $100 billion mistake, as I recall it, on their estimates of revenue with regard to the budget estimate. CBO estimates are based on actual, obligational experience. And if indeed they are wrong, this bill has in it a fail-safe provision.''

Continuing on to say, ''So we should support our Congressional Budget Office, a bipartisan office. We should not rely on OMB figures. Because certainly in the past they have been very, very unreliable and we should support the committee position.''

Mr. Speaker, I submit that we should listen to the chairman of the Committee on Transportation and Infrastructure in this very important respect.

Mr. Speaker, I think that it is also very important to note that by taking the risk of using designated scoring that takes a much more expansive cost estimate of the values, so to speak, of this offset, that is assuming we are saving $17 billion and that we can therefore spend $17 billion places us in the very awkward position of going after Social Security.

We have to remember, Mr. Speaker, that the only reason we can talk about any type of a surplus these days is that we are borrowing $100 billion in 1998 from the Social Security Trust Fund. If it were not for this borrowing, we would be running a deficit of close to $50 billion. We do not have a surplus. We cannot afford to invade the Social Security Trust Fund year after year.

It is time for budget candor. It is time for those of us here in the House of Representatives to continue to observe the commitment that we have made to the American people that we are going to use solid budget scoring numbers; we are going to use the Congressional Budget Office.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CONDIT).

Mr. CONDIT. Mr. Speaker, I rise to support the amendment. I know that it has been said, but I wanted to say it again. We had this debate a couple years ago where we talked about who we should use in terms of doing a financial analysis, and I think all of us had a pretty lengthy debate and had an opinion about this. But, in the final analysis, we thought CBO was the appropriate agency to use.

All I am saying is that I think we ought to stick to that. That is what we agreed to. And we have gone through this. I think this is a good amendment, and I would call on Members on both sides of the aisle to do what we said we were going to do when we agreed to do this a few years ago. Use the CBO. That is the numbers that we all agreed upon. And let us not confuse the matter by using one set of numbers one time and another set of numbers another time. Let us keep some continuity to this and use CBO.

I would just ask all those people to come over here and support the amendment. It is a good amendment, and I congratulate the gentleman from Minnesota (Mr. MINGE) for offering it.

Mr. MINGE. Mr. Speaker, may I inquire of the time remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Minnesota (Mr. MINGE) has 2½ minutes remaining.

Mr. MINGE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I am somewhat disappointed that so many Republican Members, colleagues who are willing to shut down the Federal Government, harming veterans, harming seniors on Social Security, putting many of our Federal employees at risk of losing their homes, not being able to pay their bills, did not think it was important enough to come back to the floor tonight to be here with less than half a dozen of our colleagues on the other side of the aisle.

But what I do hope is that hundreds of thousands, if not millions, of American that were directly harmed by the Government shutdown, such as our veterans in my district that did not receive compensation and pension checks, did not have their cases handled, I hope the hundreds of thousands of Federal employees that were put out of work because the Republicans said the principle of using the Congressional Budget Office numbers were so important we had to shut down the Government over that principle, I hope all those millions of people will notice this debate tonight and realize that the distinguished Majority Whip has now said this principle is no longer worth defending. Not only is it not worth defending, he said he is going to oppose the motion.

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

I certainly appreciate those observations by the gentleman from Texas (Mr. EDWARDS). It clearly is a sad day when we can blatantly run over this principle and proceed to pass legislation in disregard of what I think on a bipartisan basis we have over the years established as a very sound budgeting principle.

Mr. Speaker, I would simply like to close by saying that it is easy for us, in the euphoria of passing a highway bill or a transportation bill, to sort of give a wink and a nod at what we have thought was important on another day.

There is something in this highway bill for all Americans. It is important that we continue to invest in our infrastructure. I do not think there is any question about that. All of the speakers this evening agree with that principle. I would like to make sure that I am among those individuals.

But the real question that we face is our responsibility, the American people, as we proceed to pass this very important legislation. Let us make sure that we do not use this opportunity to

invest in our infrastructure as an opportunity to slide back on our commitment to balancing the budget and giving the American people the fiscal responsibility that they deserve.

□ 2100

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from Minnesota (Mr. MINGE).

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

Mr. MINGE. 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. Pursuant to clause 5 of rule I, further proceedings on the question of adoption of this motion to instruct conferees are postponed until after consideration of the motion to instruct to be offered by the gentleman from Wisconsin (Mr. OBEY).

The point of no quorum is considered withdrawn.

MOTION TO INSTRUCT CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998, OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct House conferees on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

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

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2400, be instructed to limit the aggregate number of earmarked highway demonstration projects included in the conference report on H.R. 2400 to a number that does not exceed the aggregate number of such highway demonstration projects earmarked during the 42 years since the enactment of the Highway Trust Fund in 1956.

The SPEAKER pro tempore. Under rule XXVIII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Kentucky (Mr. WHITFIELD) each will control 30 minutes.

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

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

Mr. Speaker, this motion to instruct the conferees on the highway bill now pending somewhere in this Capitol is an attempt to put some limits on the pork barrel spending in BESTEA by placing a ceiling on the total number of highway demonstration projects that can be included in the conference report.

It instructs the House conferees to make a great sacrifice and to limit the number of highway demonstration projects to the total number of highway demonstration projects that have been approved in all of the previous four years combined since the establishment of the Highway Trust Fund.

Mr. Speaker, the last time I checked, there were over 1,500 highway demonstration projects earmarked in the House version of BESTEA at a cost of about $9 billion, and the number is growing.

Apparently, the conferees intend to keep all of the House demonstration projects and add an undetermined number of Senate projects into the total pot of $9 billion for highway demonstration projects.

At 1,500 projects, that is nearly three times the number of projects included in the last surface transportation bill, and 10 times the number of projects in the 1987 reauthorization bill that President Reagan vetoed for going too far.

Mr. Speaker, in all of the years going back to the establishment of the Highway Trust Fund in 1956, Congress has earmarked some 1,022 highway demonstration projects, costing about $10 billion according to information supplied by the Federal Highway Administration.

If this highway bill passes, which the conferees are intending to wrap up tonight, they will have earmarked in one year 50 percent more pork projects than the Congress passed in the previous 42 years combined.

Let me make it clear. I do not object to all highway demonstration projects. Some are perfectly reasonable. I think that some of the projects in this bill will be reasonable, but it is a question of balance. This bill sets a new record of excess.

I would simply note that, when our good friends on the Republican side of the aisle were trying to win control of this House 3 years ago, they spoke repeatedly about 40 years of excess and mismanagement by the Democratic majority. Often that phrase was used to deride Democrats for using the legislative process to earmark individual projects that may have helped a small number of people or a particular region of the country but could not be justified in the broader context of what was good for the entire country.

But now, the Republican leadership is evidently proposing in a single piece of legislation to earmark more projects than were earmarked by Democratic Congresses during that entire 40-year period. That is enough to give excess a bad name.

Mr. Speaker, the bottom line is that my motion will merely trim about one-third of the demonstration projects included in BESTEA. I would observe that we know from previous experience with highway demonstration projects that, frequently, they languish in the pipeline and may never get built.

Just looking at the 538 demonstration projects approved in the 1991 ISTEA bill, we know that nearly 200 have not even begun construction; and that has tied up nearly $800 million in resources that cannot be reallocated to more pressing road and bridge projects. In all, over $1½ billion in ISTEA funds earmarked for highway demonstration projects remain unobligated today.

In my view, the pork barrel spending spree in this bill is going to make Congress the laughing stock of America. This is one of those bills that will probably pass tomorrow, and it will not receive very much attention. But I would predict to you that, over the next 5 or 6 months, the press is going to dig into this bill, and they are going to find incredible laughing items. You will see on network news on a weekly basis this outrage or that joke funded by the bill. A lot of Members who vote against this motion tonight or who vote for the bill tomorrow will wish that they had not.

This is the time when you have a chance to correct the problem. Frankly, the motion that I am offering is so modest that I am almost embarrassed by it. I want to repeat once more. All this says is that you should not appropriate in this one year, or you should not authorize in this one year more projects than were previously funded in the entire 42-year history of the highway program. I really think that that is the minimum that we should ask the conferees to consider cutting. I would urge Members to adopt the motion.

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

Mr. MINGE. Mr. Speaker, will the gentleman from Wisconsin yield?

Mr. OBEY. I am happy to yield to the gentleman from Minnesota.

Mr. MINGE. Mr. Speaker, I would like to ask a question of the gentleman. I have heard that occasionally when bills are introduced, presented on the floor, and they contain a large number of projects for individual Members around the country, that this can affect the acceptability of the legislation and perhaps lead to the passage of legislation that otherwise would be very difficult to pass. Has this problem come to your attention, and could you comment on that?

Mr. OBEY. Mr. Speaker, reclaiming my time, I would certainly say that is true. Let me stipulate, I am not a ''Percy Pureheart'' on this issue. I think that there are times when it is just as legitimate for the Congress to specify that $5 million will go for a specific highway project as it is for the administration to determine that that is where the money ought to go.

But I do believe that, when you have this number of projects, there is only one reason you have this many projects in the bill; and that is to pass a budget busting monster.

I did not vote for the budget that passed last year, because, as the ranking Democrat on the Committee on Appropriations, I warned that this Congress would never live up to the cuts that they were promising in that proposal. I need go no further than this bill in order to demonstrate that that was the case.

I have had many a Member come up to me today and say, I would like to vote for you. In fact, I would like to speak for you. I had one Member say, do you see that? This is the chart that demonstrates the historical growth of the project. One Member said, you see this little item at the top of that red line? I am afraid that is my project.

So you are going to see a lot of folks vote for that bill tomorrow because they have gotten a tiny little bit for their district, and that will mean that they will vote for a product which will bust the budget and, as the gentleman from Texas (Mr. STENHOLM) says, wind up putting much more pressure on Social Security and other crucial problems that we have in this country.

So I would urge Members that this bill, in my view, cannot even pass the laugh test. If we still had the TV program Laugh-In, this would consume the entire show. I would hope that the Members would support the amendment and oppose the bill tomorrow if it does not comply with it.

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

Mr. WHITFIELD. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, in the discussion of the previous motion, our majority whip had yielded our time back, and we did not reply in any way to that discussion. But I would like to take this opportunity to just point out one thing.

There was expressed great consternation on the minority side that the majority was going to agree to use CBO numbers in the scoring in this conference on the ISTEA or BESTEA bill, and that we allegedly closed the government down last year because the CBO scoring was not used, and then they expressed great consternation that now we are going to use OMB scoring.

I would simply say that, while I am not a member of the conference, I have discussed with Members who are, and it is my understanding that they agreed to use OMB numbers because, in the negotiations with the administration, and the administration's concerns, that the administration insisted that the OMB numbers be used; and that was the reason that they were.

Then as far as the budget, I would just say this, that this side, obviously, we are as committed today as we have always been to making sure that we maintain the balanced budget, that we try to pay off part of the Federal debt, that we try to give the American taxpayer some tax reduction, that we save Social Security, that we put Medicare on a sound footing.

Then I would make one other comment. I think that Congress does have a right to specify how some money is spent for highway projects. The State that I am from, Kentucky, the money goes down to the State, and, usually, the Governor and the transportation cabinet in that State make all the decisions.

So I do not think that we should apologize for directing where a small amount of this money will go, because needs have been brought to our attention. We appropriate the money, so we should have some say in how the money is spent.

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

Mr. OBEY. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker, I wonder if the gentleman who just spoke approves of the grant to PBS that is in the highway bill? Let me simply say that I must say I find it hard not to chuckle at the observations made by my friend from Kentucky.

He indicates that the reason OMB scoring is used is because the administration wants it. If he is telling me that the reason that OMB scoring is being used is to accommodate the administration, I would say congratulations. This is the first time that side of the aisle has paid any deference to the administration this entire year. The rest of the time, they have been savaging them.

I would also simply say that I fully agree with the gentleman that the Congress has an absolute right to designate projects that it thinks are high priority.

My objection is not that there are projects in this bill. My objection is that there is such a gross number in the bill, that these projects are being used to drive a bill that otherwise would not pass, because this bill is a blatant budget buster.

This bill is going to spend at least $10 billion more than we are allowed to spend under the budget which passed this Congress last year. That means that Congress will have two choices. It will either have to take that money out of some other program and, evidently, the conferees have decided to take a good piece of it out of veterans health care, which I object to, or else the conferees are going to simply use a different set of numbers to wiggle their way out of the budget and wind up enabling themselves to spend at least $10 billion more than they will admit to spending publicly through their funny money estimates.

□ 2115

That is why I object to these projects.

I would also simply say that just because the administration supports or acquiesces in something, does not mean that I always will or that people on this side of the aisle always will. I do not care who engages in this process. In this instance it happens to be wrong.

The administration, it is clear to me, is acquiescing in this legislative outrage because they do not believe that they have the votes to sustain a veto, and that is because the bill has been structured so that virtually every State and every Member has a project that will drive them to support this bill.

This bill is not going to be a bill that is passed to meet the national interests of the country. It is going to be a bill that is passed to meet the political needs of the leadership in this House and Members individually in this House, and that is not the way we are supposed to deal with a major national responsibility.

I passionately support highway construction. I think we need more investment in it. But that is not my only priority. I do not put it ahead of veterans health care. I do not put highways ahead of education. I do not put highways ahead of health. Most of all, I do not put highways ahead of honest budgeting.

So that is the reason that I make this motion; not because I have a ''Percy Pureheart'' objection to Congress occasionally selecting a high priority project. It is because this is a blatant political power play to bust the budget, and Members ought not to swallow it.

Mr. Speaker, I yield three minutes to the distinguished gentleman from Texas [Mr. EDWARDS] .

Mr. EDWARDS. Mr. Speaker, I was wondering if my colleague from Kentucky would be willing to have a discussion. I appreciated his comments, trying to explain why Republicans might oppose the very principle tonight that they were willing to shut down the government for three years ago. I would be willing to hear from the gentleman from Kentucky once again.

Mr. Speaker, I have a lot of veterans in my district who did not get compensation and pension checks, service-connected veterans who did not have their cases processed because Republicans said in these statements I have before me, made on the floor of this House, that we are willing to shut down the government basically to stand up for this principle of using CBO numbers.

I would like to be able to go back and explain to them tomorrow why the principle that the Republican Party used to shut down the government and cut off veterans' checks, to basically lay off Federal employees, to put their financial health at risk, why the principle that was so important three years ago in fighting for is not worth fighting for, or even, frankly, coming to the floor of the House to even discuss tonight? I would be glad to yield some time to the gentleman to answer.

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

Mr. EDWARDS. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Speaker, I would just remind the gentleman that the President is the one that vetoed those bills, and because of that funding ran out. As I said earlier in these discussions, in the conference regarding this very complicated, complex bill, that was one of the areas that I understand our side gave in on, to use the OMB numbers, in an effort to be amicable in this situation.

Mr. EDWARDS. Mr. Speaker, reclaiming my time, in response I would say I think the American people made it very clear who they held responsible for shutting down the government, and it was not the President they held responsible, it was the Republican majority in this House. Criticism even came from Republican Members in another body in this town of that.

But I guess the answer that I still do not have this evening is why Republicans were willing to hurt veterans, willing to hurt people on Social Security, willing to lay off Federal employees to the tune of hurting millions of American families just three years ago over this principle of honesty in budgeting, and yet tonight we hear that there will be total acquiescence to the President. What happened to the commitment to principle?

Perhaps, frankly, I better understand now why the Republican core base in this country is beginning to have some second guesses about supporting the majority it thought it was electing, committed to certain principles that we find tonight it is very conveniently ignoring in the name of spending more money or cutting more funding out of veterans' health care, perhaps.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would simply say that I really find it incredible that the conferees are going to be bringing back a bill tomorrow which ignores virtually everything that has been promised to the country on this bill over the last month.

We had a motion last night, which this House adopted unanimously, asking the conferees not to cut veterans' health care in order to pay for highway projects. Yet the conferees will be reporting back a bill which ignores that instruction.

We will soon be leaving for our Memorial Day recess. I wonder how many Members of this House are going to go home and rub shoulders with their veterans and pose for political holy pictures with their veterans organizations, one day after they have voted ''yes'' to pork and ''no'' to veterans? And yet that is what is going to happen, I would predict.

I hope that the American people are watching, and I hope that they will understand what is being done. To me, it would be an act of consummate arrogance for the conferees to do that, but I expect that is exactly what they will do tomorrow.

The best we can do is to try to urge them through motions like this not to do it, which is why the gentleman from Minnesota (Mr. MINGE) and I are both here tonight.

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

The SPEAKER pro tempore (Mr. HANSEN). The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

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

Mr. OBEY. 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.

Without objection, any electronic vote on the motion to instruct offered by the gentleman from Minnesota (Mr. MINGE) will be conducted as a 5 minute vote, if conducted immediately following this 15 minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 77, nays 332, answered ''present'' 1, not voting 23, as follows:

[Roll No. 184]

YEAS—77

Archer
Ballenger
Barrett (WI)
Barton
Bilbray
Brown (OH)
Campbell
Castle
Chabot
Christensen
Coburn
Condit
Cox
Crane
Cubin
Edwards
Eshoo
Gibbons
Goss
Graham
Hall (TX)
Hastings (FL)
Hayworth
Hill
Hilleary
Hobson
Hoekstra
Inglis
Istook
Johnson (CT)
Jones
Kaptur
Kasich
Kind (WI)
Kleczka
Klug
Kolbe
Largent
Leach
Lewis (GA)
Maloney (NY)
McCollum
Meehan
Meek (FL)
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Neumann
Obey
Pastor
Porter
Portman
Rangel
Rohrabacher
Royce
Salmon
Sanford
Sawyer
Scarborough
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shays
Sisisky
Souder
Stearns
Stenholm
Stump
Thornberry
Vento
Waters
Wexler
Wolf

NAYS—332

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (WA)
Hefley
Hefner
Herger
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Nadler
Neal
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Saxton
Schaefer, Dan
Scott
Serrano
Shaw
Sherman
Shimkus
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velazquez
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Lofgren

NOT VOTING—23

Bateman
Berman
Deutsch
Foley
Gonzalez
Harman
Johnson, Sam
Manzullo
McCrery
McDade
Meeks (NY)
Moran (VA)
Ney
Parker
Quinn
Skaggs
Stark
Taylor (NC)
Torres
Towns
Waxman
Wicker
Yates

□ 2143

Messrs. SKEEN, SMITH of New Jersey, SHAW, ROTHMAN, DOOLEY of California, HILLIARD, ANDREWS, BISHOP, POMEROY, RUSH, HEFNER, GEJDENSON, MILLER of California and PAYNE, and Ms. DANNER, Mrs. THURMAN and Ms. PRYCE of Ohio changed their vote from ''yea'' to ''nay.''

Messrs. SENSENBRENNER, JONES, KOLBE, STUMP, HILLEARY and GIBBONS changed their vote from ''nay'' to ''yea.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2145

MOTION TO INSTRUCT ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION ACT OF 1998, OFFERED BY MR. MINGE

The SPEAKER pro tempore (Mr. HANSEN). The pending business is the question de novo of agreeing to the motion to instruct on the bill (H.R. 2400) offered by the gentleman from Minnesota (Mr. MINGE).

The Clerk will designate the motion to instruct.

The Clerk designated the motion to instruct.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota (Mr. MINGE).

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

RECORDED VOTE

Mr. MINGE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 156, noes 251, answered ''present'' 2, not voting 24, as follows:

[Roll No. 185]

AYES—156

Andrews
Archer
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentsen
Bilbray
Boyd
Brady (TX)
Brown (OH)
Burr
Campbell
Canady
Cannon
Cardin
Carson
Castle
Chabot
Chenoweth
Christensen
Clayton
Coble
Coburn
Combest
Condit
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeGette
Doggett
Dooley
Dreier
Edwards
Ehrlich
Emerson
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fazio
Fox
Gephardt
Goodlatte
Goss
Graham
Hall (TX)
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Hooley
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Johnson (CT)
Jones
Kasich
Kennedy (RI)
Kennelly
Kind (WI)
Kingston
Kleczka
Klug
LaFalce
Lantos
Largent
LaTourette
Leach
Levin
Lewis (GA)
Lofgren
Lucas
Luther
Maloney (NY)
McCarthy (MO)
McCollum
McDermott
McIntosh
McIntyre
McKinney
Meehan
Mica
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Neumann
Norwood
Nussle
Obey
Paul
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Radanovich
Rivers
Roemer
Rogan
Rohrabacher
Royce
Salmon
Sanchez
Sanford
Sawyer
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shays
Sherman
Smith (MI)
Smith, Adam
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sununu
Tanner
Taylor (MS)
Thornberry
Thurman
Turner
Wamp
Watkins
Watts (OK)
Wexler
Weygand
Wolf
White
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—2

Peterson (MN)
Sabo

NOT VOTING—24

Bateman
Berman
Deutsch
Foley
Gonzalez
Harman
Johnson, Sam
Manzullo
McCrery
McDade
Meeks (NY)
Moran (VA)
Ney
Parker
Quinn
Skaggs
Stark
Taylor (NC)
Torres
Towns
Waxman
Whitfield
Wicker
Yates

NOES—251

Abercrombie
Ackerman
Aderholt
Allen
Armey
Bachus
Baesler
Baldacci
Barcia
Bass
Becerra
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Capps
Chambliss
Clay
Clement
Clyburn
Collins
Conyers
Cook
Cooksey
Coyne
Cramer
Cummings
Danner
Davis (IL)
DeFazio
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Doyle
Duncan
Dunn
Ehlers
Engel
English
Ewing
Fattah
Fawell
Filner
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Gordon
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (FL)
Hefley
Hilliard
Hinchey
Hinojosa
Holden
Horn
Hostettler
Houghton
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kildee
Kilpatrick
Kim
King (NY)
Klink
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Latham
Lazio
Lee
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Maloney (CT)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McGovern
McHale
McHugh
McInnis
McKeon
McNulty
Meek (FL)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Nadler
Neal
Northup
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sanders
Sandlin
Saxton
Schaefer, Dan
Serrano
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stabenow
Stokes
Strickland
Stupak
Talent
Tauscher
Tauzin
Thomas
Thompson
Thune
Tiahrt
Tierney
Traficant
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Weldon (FL)
Weldon (PA)
Weller

□ 2153

Ms. ROYBAL-ALLARD and Messrs. BISHOP, GEJDENSON, MILLER of California, and ROTHMAN changed their vote from ''aye'' to ''no.''

Messrs. ROGAN, SPRATT, FOX of Pennsylvania, and EVERETT changed their vote from ''no'' to ''aye.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 119, PROPOSING AMENDMENT TO CONSTITUTION TO LIMIT CAMPAIGN SPENDING, AND H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 442 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 442

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the joint resolution (H.J. Res. 119) proposing an amendment to the Constitution of the United States to limit campaign spending. The first reading of the joint resolution shall be dispensed with. General debate shall be confined to the joint resolution and shall not exceed one hour equally divided and controlled by Representative DeLay of Texas or his designee and a Member in favor of the joint resolution. After general debate the joint resolution shall be considered for amendment under the five-minute rule. The joint resolution shall be considered as read. During consideration of the joint resolution for amendment, the Chairman of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 or rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of

questions shall be 15 minutes. At the conclusion of consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. Before consideration of any other amendment it shall be in order to consider the amendments in the nature of a substitute specified in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order specified, may be offered only by the Member who caused it to be printed in the Congressional Record or his designee, shall be considered as read, and shall not be subject to a substitute amendment or to a perfecting amendment carrying a tax or tariff measure. During consideration of the bill in the Committee of the Whole, all points of order against each amendment in the nature of a substitute specified in the report are waived. Consideration of each amendment in the nature of a substitute specified in the report shall begin with an additional period of general debate, which shall be confined to the subject of the amendment and shall not exceed one hour equally divided and controlled by the Member who caused the amendment to be printed in the Congressional Record or his designee and an opponent. During consideration of amendments to an amendment in the nature of a substitute, or of other amendments to the bill, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. If more than one amendment in the nature of a substitute is adopted, then only the one receiving the greater number of affirmative votes shall be considered as finally adopted and reported to the House. In the case of a tie for the greater number of affirmative votes, then only the last amendment to receive that number of affirmative votes shall be considered as finally adopted and reported to the House. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that allows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment to the bill reported from the Committee of the Whole or to an amendment in the nature of a substitute finally adopted and reported to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 2200

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

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), 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.

I would like to begin by saying it is my understanding that the only debate tonight will be on the rule with a prospective vote perhaps on the rule, and all general debate will be tomorrow.

Mr. Speaker, House Resolution 442 provides for the consideration of H. J. Res. 119 under an open amending process with one hour of general debate equally divided between the gentleman from Texas (Mr. DELAY) and a Member in favor of the joint resolution. The rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD and allows the chairman to postpone votes and reduce the voting time to 5 minutes if the postponed vote follows a 15-minute vote.

On the joint resolution, the rule provides for one motion to recommit with or without instructions.

The rule also provides for consideration of H.R. 2183 under a modified open amendment process any time after the adoption of the rule.

H. Res. 442 provides for two hours of general debate equally divided between the chairman and ranking minority member of the Committee on House Oversight. Following the two hours of general debate, the rule provides for consideration of the 11 amendments in the nature of a substitute specified in the Committee on Rules report. In order to allow for consideration of as many alternatives as possible, the Committee on Rules has waived all points of order against each of the amendments in the nature of a substitute. Under this very fair, open rule, each amendment in the nature of a substitute may be offered only in the order specified, may be offered only by the Member who caused it to be printed in the CONGRESSIONAL RECORD or his designee, shall be considered as read, and shall not be subject to a substitute amendment or perfecting amendment carrying a tariff or tax provision.

Mr. Speaker, we have provided one hour of general debate at the beginning of consideration of each of the 11 substitutes, which shall be equally divided and controlled by the Member who caused the amendment to be printed in the RECORD or his designee and an opponent. The rule permits the Chair to accord priority in recognition to preprinted amendments and allows the Chair to postpone votes during the bill's consideration.

Mr. Speaker, we do not allow the King of the Hill rule that the Democrats instituted for 40 years in an effort to subvert popular legislation and undermine free and open debate. Under H. Res. 442, the substitute that receives the most votes will be reported to the House. If more than one amendment in the nature of a substitute is adopted, then only the one receiving the greater number of affirmative votes shall be considered as finally adopted and reported to the House.

I am certain that I did not see this kind of process on campaign finance reform when the Democrats controlled the House. In fact, in my first year in this House, former Speaker Foley and the Democrat Committee on Rules muzzled the minority and forced a closed rule upon us. Not only were we allowed to offer only one amendment to the entire bill, but the Democrats refused to allow us a basic right to offer a motion to recommit with instructions.

A quick glance back in history shows that this was not simply an isolated incident but a pattern of suppressed debate on this issue in Democrat Congresses.

In the 102nd Congress, for example, the Democrats again stifled open and free debate with a similarly closed gag rule. I expect that the calls today will again be for a return to the days of closed rules and limited debate. The opponents of this open debate want us to close down the process, allow consideration of only one bill, and foreclose all other opinions on this subject.

Mr. Speaker, it is only fair that we present the House with a wide open amending process that allows each Representative the ability to amend and perfect each of the 11 campaign finance reform bills. This rule will create the most open debate process in the history of campaign reform, as was promised by the Speaker.

Although I am not as cynical as some on the subject of campaign finance reform, I agree that the system can be improved. However, the first amendment guarantees our right to express ourselves, and that right extends to political expression as well. Therefore, the right of Americans to contribute to political campaigns should not be infringed. Clearly, it is important for voters to know which individuals and which groups are financing a candidate. I have cosponsored legislation that ensures that voters know where that money is coming from and can act accordingly.

On the subject of free speech, the rule allows for consideration of a constitutional amendment that was originally introduced by the minority leader, the

gentleman from Missouri (Mr. GEPHARDT), that would give Congress new power to regulate campaign expenditures. The Member offering that amendment, the gentleman from Texas (Mr. DELAY), opposes it because it basically gives the Congress the authority to enact any legislation that may abridge an array of free speech and free association rights under the First Amendment. Nevertheless, under this open amendment process, the Committee on Rules wanted to allow a full debate on the measure.

I also think it should be noted that we need to deal with the problem of union money being funneled into races across the country. Despite their calls for reform, the $400 million in union money that was dumped into the 1996 elections has been protected by Democrats against the will of hard-working American union members. If we are truly going to talk about reform, then we need to address how unions are using, for partisan political purposes, the paychecks of the union workers.

While I do not believe that major changes are necessary to the existing campaign finance laws, I do, however, believe that these existing campaign finance laws have been under assault since early 1996.

We have now found that two major Democrat donors benefited from an administration policy change that improved the accuracy of missiles pointed at American cities. Even some in the administration believe that the decision to provide American technology to China has put American national security at risk. Personally, I believe it would be more useful if we could get some kind of assurance that the current laws we have on the books are going to be honored. Nonetheless, the administration is calling for new reforms.

However, it should be noted that it is already illegal to funnel millions of dollars in foreign money into the United States electoral system as the Chinese did. It is already illegal to make fund-raising calls from Federal property. It is already improper to use the Lincoln bedroom and Air Force One for fund-raising activities, and it is also already illegal under current law to go a Buddhist temple and accept illegal campaign funds.

These actions are already against the law, and they were shamelessly violated in 1996. Mr. Speaker, nothing in this new campaign reform legislation will matter if one party or the other simply decides that the law does not apply to them.

That is why our focus today should be on how current campaign finance law was so flagrantly violated. Unfortunately, we cannot get to the bottom of the 1996 campaign finance scandal because 91 witnesses who know the truth about campaign violations have either fled the country, refused to testify, or have taken the Fifth Amendment.

Amidst this enormous left wing coverup come the artificial calls for campaign finance reform. Mr. Speaker, if we are going to consider campaign finance reform, this majority is committed to a process that allows for a full debate on the pertinent issues. This rule provides for that kind of open debate.

The rule for the campaign finance bill was favorably reported out of the Committee on Rules. I urge my colleagues to support the rule so that we may proceed with the general debate and consideration of each of the substitute campaign finance reform bills.

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

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

Mr. Speaker, this rule proves once and for all that the Republican majority has no real interest in actually pursuing real campaign finance reform. Under the guise of full and free debate, the Republican majority has brought to the House a process which could in all probability take up weeks of the time we have left in this session of Congress and in the end might produce nothing.

Mr. Speaker, there are many points of view on this subject, but it does not serve the institution well, nor does it serve the American people well, to debate those views in a cynical process which is little more than a charade. The process the Republican majority has brought to the floor ensures that the House will not have the opportunity to have an up or down vote on either the bipartisan freshman proposal or the Shays-Meehan proposal.

This rule makes in order 11 substitutes to the freshman reform proposal, as well as the consideration of any germane amendment to each and every one of those substitutes. In essence, as each substitute is considered, the rule will allow multiple amendments to that substitute. In addition, it is anticipated that the Committee on Rules will meet again after the Memorial Day recess to report another rule which will make in order a number of nongermane amendments to the substitutes. Included in those nongermane amendments are a number of proposals which many Members in this House consider to be poison pill amendments.

After each substitute has been considered, whichever has received the most number of votes will be judged the winner. This may be an open process, Mr. Speaker, but I beg to differ with those who might characterize it as allowing the House to reach a decision when in fact it may be designed to do the very opposite.

To further compound the complication, the rule allows the House to bring up a constitutional amendment introduced but not supported by the majority whip, the gentleman from Texas (Mr. DELAY). The majority whip has called this proposal a ''big brother'' remedy, yet he came to the Committee on Rules yesterday to ask that it be made in order. Consideration of this constitutional amendment is just more of the same attempt to divert the attention of the House and the American public from the real question: Do we want real campaign finance reform or do we not?

The Shays-Meehan proposal is considered by many outside good government groups to be true campaign finance reform. The bill bans soft money at the Federal and State level if those funds are used to influence Federal elections. The bill redefines express advocacy to include radio and television communications that refer to a clearly defined Federal candidate within 60 days of an election or that include unambiguous support or opposition to a Federal candidate outside the 60-day period.

All ads falling under this definition could only be run by using legal hard dollars. The bill clarifies the Pendleton Act restrictions on fund-raising on Federal property and bars political parties from making coordinated expenditures on behalf of candidates who do not limit spending their own money to $50,000.

Finally, the Shays-Meehan proposal codifies the Beck decision that ensures that nonunion employees who pay union agency fees do not have to pay for union political activities.

Unfortunately, this bill does not contain a nonseverability clause. Should the Supreme Court find any essential part of this proposal to be unconstitutional, the remainder, however unbalanced or unwise because of the loss of that element, would remain the law of the land. Losing an essential element of Shays-Meehan would lead us right back to the situation in which we now find ourselves.

□ 2215

After the Supreme Court struck down one of the four essential pillars in Buckley v. Valeo in 1976, what was left was an unbalanced and unstable hodgepodge that gave us the quagmire we are trying to work our way out of today. If we are to consider amendments to these proposals, Mr. Speaker, I suggest that prominent among them should be one which provides for nonseverability.

The Shays-Meehan proposal represents a sea change in how Federal elections are conducted today, Mr. Speaker, and it deserves the opportunity to be fully and freely debated. Unfortunately, this rule does not provide that opportunity.

The freshman bipartisan bill, sponsored by the gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Maine (Mr. ALLEN), is also a proposal which would make significant changes in the way Federal election campaigns are conducted. The freshman proposal also bans national parties from accepting or raising soft money on behalf of the national committee or on behalf of State political parties. However, the freshman proposal does permit State political parties to continue to raise and spend soft money and use those funds for activities intended to affect Federal elections. These are significant changes,

Mr. Speaker, and deserve to be debated by this House.

The freshman proposal indexes for inflation the allowable amount of PAC and individual contributions into $100 increments beginning in 1999 and increases the aggregate annual contribution limit from $25,000 to $50,000 each year, instead of election cycle, with a maximum of $25,000 in donations to candidates and PACs, and a maximum of $25,000 to political parties. This bill also raises PAC contributions to national parties from $15,000 each election cycle to $20,000 each calendar year and removes party candidate coordination limits.

Finally, the bill requires third-party advocacy groups who run issue ads on either television or radio to report expenditures of more than $25,000 on a single candidate, or more than $100,000 on multiple candidates. Failure to comply with the requirements set out in the bill could result in fines up to $50,000. These changes, Mr. Speaker, are quite significant and do deserve to be fully and freely debated.

So, Mr. Speaker, some Democratic Members, in an effort to provide for debate on campaign finance reform that is not designed to derail the process, will vote against the previous question. They hope to amend this rule to provide for the kind of process that was set out in the discharge petition that came so close to reaching the requisite 218 signatures. They hope to allow the House to consider each substitute, and when the House has agreed to the substitute it wishes to work from, then consider amendments to that proposal. The Democratic rule is a much more reasonable process and one which will allow the House to choose within a reasonable period of time whether it wishes to pursue campaign finance or not.

Mr. Speaker, we just heard Mr. LINDER expound about things that are currently in the press related to China rather than talking about campaign finance reform. It is obvious that the Republicans do not want to deal with campaign finance reform. All they want to deal with is things that are in newspapers and on TV, whether they are substantiated or not.

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

Mr. LINDER. Mr. Speaker, I yield myself 30 seconds to point out that the reason I raise the issue of Chinese money is it was a precise violation of current finance laws with respect to campaigning, and if they are not going to obey the current laws, how can we expect them to obey any future ones?

Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule.

I thank the gentleman from Georgia for his excellent work on the Committee on Rules and his efforts in regard to this rule and this legislation. And I also want to express my appreciation to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules, for his commitment to a fair and open debate on campaign finance reform.

I am one of the lead sponsors of the bipartisan Campaign Integrity Act, also known as the freshman bill, and I just want to congratulate my cosponsor, the gentleman from Maine (Mr. TOM ALLEN), for his work, and the other Democrat freshmen that have worked so hard; as well as the gentleman from Missouri (Mr. KEN HULSHOF), the gentleman from Texas (Mr. KEVIN BRADY), the gentleman from Montana (Mr. RICK HILL), and so many other freshmen Republicans that have worked hard for over a year in developing a proposal that is bipartisan in formation and bipartisan in nature and it continues in a bipartisan fashion today. We have worked well together on this. So this is the base bill that is under consideration.

The rule before us allows for the consideration of 11 substitute amendments to the base bill. Those substitutes range from the commission bill, sponsored by the gentleman from Washington (Mr. RICK WHITE), to the Paycheck Protection bill, offered by the gentleman from Colorado (Mr. BOB SCHAFFER). It allows votes on the vast range of reform bills, even the extremes, from the Doolittle bill, which removes all limits on contributions, to the Shays-Meehan bill, which is massive in terms of its regulatory control over issue advocacy groups. In other words, the rule is fair to all and will provide ample opportunity for debate on this critical issue.

What will the result be? Certainly it is unknown, and the amendment process is still up in the air. But I am hopeful that we can go through this process in a bipartisan fashion; that we will not be slamming each other throughout this but that we work to get the job done.

I believe the freshmen who came here believe that we are here to accomplish something and not get sidetracked on a multitude of issues. We need to start this and we need to finish it. I ask colleagues to support this rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

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

Mr. GEPHARDT. Mr. Speaker, I rise to congratulate all of the Members who signed the discharge petition, which has brought about this rule tonight and brought about the consideration of campaign reform. And in particular I want to commend the gentleman from Massachusetts (Mr. MEEHAN) for all the work that he has done, and I want to commend the gentleman from Connecticut (Mr. SHAYS) for all of the work and effort that he has put forth.

I want to thank the members of our Blue Dog coalition here in the Democratic Caucus and all the work that they have done. And I want to commend the freshmen on both sides who have worked so hard to see that this issue comes up.

In truth, this issue should have come up some months ago, when we had this tortured procedure of having a suspension. It is time for campaign reform. The reason the discharge petition got signed by so many Members, and the reason that so many Members in this body are for campaign reform is that its time has come. The American people want us to enact campaign reform. The perception in the country, right or wrong, is that money is the dominant feature of America's campaigns. People are sick of that. They want to have a control on the money.

I would simply say to the Members that I hope all of the Members will vote for the Shays-Meehan bill. The Shays-Meehan bill is, in my view, of all the bills, and I have worked on many of the bills that are going to be up, is the best bill. It is the first step that we can take. It gets rid of soft money, the large contributions which have been so dominant in this system. We need to take this first step.

It does something about outside expenditures, of outside independent groups coming in and spending thousands and thousands of dollars at the end of campaigns.

It does not do everything that should be done in campaign reform, but it is a solid first step. And I hope that every Democratic Member on my side of the aisle will support this legislation with their vote, and I hope Republicans will support it as well.

We should be able to get 218 votes on the floor of this House next month and we will make a blow for what the American people want to clean up this system and move it in the right direction.

Vote for the rule, vote for Shays-Meehan when we get that chance.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time.

My colleagues, I too rise in support of this rule, and I listened with great interest to the minority leader decry the current state and the perception of running for political office and raising funds.

Mr. Speaker, I think there are three words that sum up the essence of what is transpiring in the body politic today, and that is: Obey existing laws. That is what should be done. Sadly, because of an association with foreigners and foreign money, we now have serious allegations.

Rather than changing the rules, although I think we are all happy to do so under an open fashion, in stark contrast to what went on for some 40 years here before the new majority took control, we will have a chance to openly debate this, but make no mistake, my

colleagues, the most radical reform would be for my liberal friends and those at the other end of Pennsylvania Avenue to obey existing laws.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BONIOR), the Democratic whip.

Mr. BONIOR. Mr. Speaker, every 2 years America's airwaves are flooded with political attack ads. These negative ads leave voters feeling cynical, disenchanted, and with little faith in politicians or in the political process.

These attack ads are also the main reason why we spend so much time fund-raising, defending ourselves against vicious 30-second spots, often now funded by outside groups, and have become more and more costly every single year and every single election. Free TV time for credible candidates could drastically lower the cost of campaigns and eliminate the need for excessive fund-raising.

The broadcasters and the radio folks and the TV folks and the cable folks, they do not own those airwaves. They belong to the American people, not the media corporations.

Under the current system, many people feel they have no political voice. No political voice at all unless they contribute $50,000 or $70,000 or $100,000 to the major parties. And many public officials feel they have no choice but to court such contributions. This ends up excluding all but the wealthiest Americans from the political process, spawns investigation after investigation, and really eats away at the very heart of our democracy.

One of the reasons we are seeing the decline of people participating at the polls is because of this very system that we are forced to operate under. Look at what is happening in California where millionaires are duking it out to be governor, and the poor man in the race is spending $8 million in the primary.

This Congress has the capacity to change that. We can dismantle the current system that, I daresay, very few of us like. We can restore the integrity of our elections. We can renew the faith of the voters. And the first important step on that path, the first important step in this process is passing a bipartisan bill, the Meehan-Shays bill.

This bill, as the leader said, would ban soft money, the huge contributions to political parties that really are just an end run around Federal contribution limits. This bill would require outside groups that run so-called issue advertisements to play by the same funding rules as the actual candidates. This bill would force timely disclosure of who is really funding campaigns so that the voters can make informed decisions about the information that they are getting.

□ 2230

Meehan/Shays will not solve our problems entirely, but it is a good first step. It will demonstrate that this Congress is committed to genuine reform; and that is no small commitment for the Speaker, who, as the leader has said, has blocked reform at every step, who said that the problem with our political system is that we spend too little money.

It does not have to be that way. Raising more money to clean up politics would be like using a bucket of kerosene to put out a fire. But we can work together this week, next month in fixing the system.

Mr. Speaker, schedule a full and a fair debate on campaign finance reform. Americans will not accept any more political games, any more false delays, any more poison pills, any more sham reforms, any more gaming of the system. Give the Members of this House, Democrats and Republicans alike, a clean up-or-down vote on Meehan/Shays. It is a fair, bipartisan approach; and it should be judged on its merits, nothing else.

The American people are watching. The Meehan/Shays is the one vote that will tell them everything. I urge my colleagues when we get to this debate to be vigilant and to stand with those who stand for reform.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. HILL).

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

Mr. Speaker, is soft money constitutionally protected? No, not exactly.

Are the political parties and others constitutionally protected to raise money in any amount from any sources? No, not exactly.

Many of those who will be arguing about soft money bans are going to claim that soft money is constitutionally protected, and they will be using an illusionist's sleight of tongue when they make that argument.

Some will refer to the Supreme Court decision in Colorado v. FEC. In that case, the Colorado Republican Party sued the FEC, saying that the Federal agency had no authority to regulate soft money issue advocacy campaigns.

Did the court sanction soft money in that decision? Well, no, not exactly. What it said was that the Federal Election Campaign Act permits unregulated soft money for some uses. It did not say it was a constitutional right. It simply said the Federal Election Campaign Act did not encompass soft money.

So what does the freshman bill do about soft money in Colorado? It says this. It says that the National Republican and Democratic Parties cannot give soft money to the Colorado State parties. It says that federal officeholders cannot raise soft money for those State parties. It says that Colorado cannot get soft money from another State party. And it ends money laundering.

But if the people of Colorado want the State parties to be able to raise and spend soft money, they can; and if they do not, they can stop it. That is what the tenth amendment is about, letting States make decisions that impact the States.

The Supreme Court has said that limits on spending have serious constitutional problems because they restrict free speech. This bill does not limit spending. It places limits on contributions, which the Supreme Court has ruled is constitutional.

This freshman bill limits contributions by saying ''no more soft money'' to our national parties. No more corporate money. No more big labor money. No more laundering of money. And no limits on free speech.

I say, support the rule; defend the freshman rule. It is fair to both political parties. It meets constitutional muster, and it will restore integrity to campaigns.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FAZIO), the chairman of the Democratic Caucus.

Mr. FAZIO of California. Mr. Speaker, believe it or not, I would like to be here in the well tonight to congratulate the Republican leadership for finally relenting and allowing a fair debate on genuine campaign finance reform. Unfortunately, I cannot do it.

The Republican leadership want no part of campaign finance reform. The gentleman from Georgia (Mr. GINGRICH) repeatedly has said that not enough money is spent on political campaigns. He does not think that billions of dollars spent each year on 30-second negative TV spots is enough.

But this is the Speaker who made a promise in Claremont, New Hampshire, 3 years ago. He looked President Clinton straight in the eye, shook his hand, and promised to commit himself to campaign finance reform. We know the old phrase ''a promise made, a promise broken.''

Last winter, the Speaker made another promise. After the Senate began debate on campaign finance reform, he committed to have a vote on real campaign finance reform by the end of March. Well, instead, we got a rigged process and a phoney bill and a lot of bad press. Another promise made, another promise broken.

It brings us to today, after House Democrats from across the spectrum and a handful of Republicans forced the Speaker to promise a vote on real campaign reform by May 15. Well, check the calendar. It is May 21. And we are just beginning a debate 1 day before a 2-week recess, with no sign of a simple vote on campaign finance reform on the horizon. We are destined to be filler for the next several months. Another promise made, another promise broken.

What is the Republican leadership afraid of? Well, it is pretty obvious. They are afraid that campaign finance reform will pass. So they bottled it up, put it off and now, in their latest attempt to kill it, have made it complicated and cumbersome.

I think it is time we send the final message. Let us tell them that we want a straight up-or-down vote now on the

Meehan/Shays campaign reform bill. No more delay. No more technical mumbo-jumbo. No more broken promises.

I want my colleagues to know that the gentleman from Missouri (Mr. GEPHARDT); our Whip, the gentleman from Michigan (Mr. BONIOR); all of those who have worked on our side are asking for a no vote on the previous question as a way of explaining our frustration with a process that has not served not only this body but the American people well. Then perhaps should we prevail. We could have that vote up or down, as the American people deserve it.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I would like to start by congratulating the gentleman from Georgia (Mr. LINDER) the representative of the Committee on Rules here, the gentleman who yielded to me. Because I think they did the right thing, and they have done something which I think all of us in this House should embrace who believe that we should have an open rule process for this in.

I have heard that there are supposed to be 500 amendments on this, and it is going to be a very difficult task to straighten out what we should be voting on and what we should not be voting on. But the bottom line is that the leadership and the Committee on Rules in particular heard the message here, and they have done a wonderful job, and I think they deserve the heartfelt thanks of all of us who have been campaigning for campaign finance reform in some way or another here in the last couple of years.

There are a lot of good bills which are here. I think the Freshman bill is a particularly good bill. I also happen to favor Meehan/Shays. I think the gentleman from California (Mr. THOMAS) has done a much more exceptional job on campaign finance reform than anyone has given him credit for.

But I would caution each and every one of us as we enter into this fray I guess after we come back from the Memorial Day break that it is going to be very difficult to hold intact the concept of a majority for a particular bill that will be campaign finance reform and perhaps even more difficult to hold together a majority for the particular bill that one cares about.

And yet, in my judgment, there have been enough abuses, some maybe perfectly legal, as a matter of fact, and some perhaps even illegal, that the time has come in the United States of America when we all should look in the mirror.

I have a hunch that there is enough blame to go around from one political party or the other and perhaps from one candidate to another as we look across America. And I must say that most candidates live well within the rules, but there have been a lot of abuses and the time has come for us in the Congress of the United States to really focus on this issue.

So it is my hope as we stand here tonight that, first of all, we do adopt this rule. That is, ultimately, very, very important. And I hope we adopt it by a large majority. And that, secondly, we pay attention to this debate. And then, hopefully, when it is all said and done, we will have campaign finance reform in America.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, they said pigs would fly before we got an open debate on campaign finance reform in the House. Well, Mr. Speaker, it is time to bring home the bacon because we are here at last. After 4 years of promises made and promises broken, we are finally going to get a vote on Shays-Meehan.

Or are we? It is not all clear to me that this rule will allow for a vote on the Shays/Meehan bill, especially in light of the commitment of the gentleman from Texas (Mr. DELAY) to essentially filibuster this bill by offering hundreds of amendments throughout the summer.

The Speaker's message is clear. He supports more money in campaigns, not less. He wants to enhance the role of wealthy special interests in congressional elections rather than diminish it. Well, the public clearly feels differently.

In a recent NBC Wall Street Journal poll, 92 percent of the American people felt that too much money was spent on campaigns. We are here today because the American voters demand that we fix a broken system.

Over the course of this debate, there will be many substitutes and many amendments. I urge all of my colleagues to remember that there is only one bill that is both bipartisan and bicameral and that will enact real campaign finance reform this year, there is only one bill that has the support of nearly every grassroots organization that is active on reform, and there is only one bill that has the support of editorial boards all across this country. That is the McCain/Feingold/Shays/Meehan bill.

Unlike the other substitutes and alternatives, only Shays-Meehan will conclusively ban soft money. Only Shays-Meehan will address the growing problem of third-party campaign advertisements and only Shays-Meehan will give the FEC the teeth it needs to prevent abuses in the current system.

Above all, our bill is a product of compromise. It will benefit neither party at the expense of the other. At the end of the day, Mr. Chairman, a vote for campaign finance reform is a vote for Shays-Meehan.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the rule.

I guess I would like to say I guess it is better late than never. We should have had this debate last year. But at least now, with this rule, we are about to have this debate. But, again, better late than never.

I think we must thank the Committee on Rules. It was a hard job to structure this rule. Given the complexities of the issues and the controversies generated, and we have heard some of them here tonight, and the interest groups that have been working at cross purposes here, I think it is probably the best vehicle that we could have supported.

Well, whatever one would say about that, the point is the time is now to deal with this issue and we can finally get at our campaign system that is clearly out of control. We can at least have an intelligent debate of sorts on this.

I think there are many critically important issues that we can discuss and examine during the course of this debate, some of them mentioned tonight. We must support this rule and, hopefully, pass Shays-Meehan in the end.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentleman from Maine (Mr. ALLEN).

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

The freshmen Democrats and the freshmen Republicans came together as our major undertaking in this class, all of us were involved in targeted races in the 1996 election, and we decided we were going to work together. It does not always happen in this House, but we decided to work together, and we put together H.R. 2183, the bipartisan freshman bill.

We are proud that that bill is the base bill for a debate in this Congress. We respect everything that other reformers have done, including the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) to bring this cause forward.

Now, we could look at this rule and say, ''We are proud of this rule. It is going to give us the complete, open debate that we asked for.'' But when we look back at the history over the last month or two, we see an enormous reluctance to bring up campaign reform. We remember that when the Republican leadership tried to bring up a bill they tried to bring up a bogus reform bill that took two-thirds in order to pass. That was not the way, and the people of this country said, ''No, that is bogus reform. We need real reform.''

Now we have a rule that allows 11 substitutes and many amendments; and the question is, can this process be managed so we have a fair debate here on the floor so we can give the American people what they want? And what they want in every poll in every time we go back to our districts, they say, ''There is too much money in politics. We have got to contain the money. We need campaign finance reform.''

□ 2245

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I heard a lot about people denouncing attack ads and independent expenditures and soft money, but it is interesting to me, not one person that has spoken has denied that money being spent in their district. They could very easily say, I do not want any of this money in my district, but none of these self-righteous people are doing that in their own districts.

We hear from many people too much is being spent. We also know that Americans spend about as much each year on yogurt and potato chips as we do on electing our officials. Are the proponents of limiting free speech and expenditures trying to tell the American people they spend too much money on yogurt?

They are going to come up next and say, you spend too much money on sports, because that money is more than campaigns. Are they going to say, you spend too much money on entertainment, because that is greater than the amount spent on campaigns.

We have a lot of concerns. My concerns are foreign money and campaigning on Federal property and illegal money. But, oh, my goodness, we have laws that prevent that. We have to keep this in mind, that you need to enforce existing laws.

Mr. FROST. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. STENHOLM).

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

Mr. STENHOLM. Mr. Speaker, having joined with the gentleman from Kentucky (Mr. BAESLER) and other members of the Blue Dog Caucus to initiate a discharge petition last October to force consideration of campaign finance reform under a fair and open process, I am very pleased to be here tonight debating a rule to bring up campaign finance reform under an open process.

The American people deserve to know where their representatives stand on the major proposals to reform our campaign finance laws. Although this rule meets the standard of openness that the Blue Dogs call for in our discharge petition, the process for considering campaign finance reform will fall far short of the standard of fairness unless we defeat the previous question and allow the gentleman from Massachusetts (Mr. MOAKLEY) to offer an amendment to allow the House to have clean votes on all the major proposals under a fair process.

Having worked with my Republican colleagues to use discharge petitions to force a fair debate on the balanced budget constitutional amendment and other issues, I am very disappointed that the majority did not listen to the advice of those of us who initiated the discharge petition that brought us to this point.

The Blue Dog discharge petition in the underlying rule, H. Res. 259, calls for extensive debate on leading reform legislation followed by votes on each offered substitute.

The guiding principle behind the Blue Dog discharge petition was that we should allow clean up-or-down votes on all major campaign finance plans: the freshman bill, who worked awfully hard on their bill; the Shays-Meehan bill; the Doolittle bill; any alternative either leadership wishes to offer and any other alternatives as substitutes at the beginning of the process.

Under the king-of-the-hill process in which the amendment receiving the largest number of votes becomes the base bill for the purpose of perfecting amendments, if more than one amendment receives a majority vote, the Blue Dog discharge rule would have allowed clean votes on all amendments in the form the authors of the amendment wanted by prohibiting second degree amendments.

Let me just sum up by saying what we must do to provide for a clean and open debate is to allow all the substitutes to be submitted as those authors wish them to be submitted and vote on them and allow the one that gets the most votes to become the base bill and then allow anyone that has an amendment to offer that amendment to the base bill ultimately getting to the final package of true campaign reform. To do less than that will make another sham. We have already been through one sham in this process. To do other than that will end up with another sham.

Mr. LINDER. Mr. Speaker, I find it interesting now that wide-open rules are considered shams when they are not getting their way.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I thank the gentleman for the time, and I am going to overlook the specifics and the details for a moment and just say that I am grateful to our leadership for hearing the appeal of some of us and many from the other side to give us an opportunity over the coming days and weeks to debate this issue in an open process. I think, in all fairness, it will be an open process.

But just to say that our party, the majority party here, has possibly decided to change strategy and quit running and hiding from this issue and get on the offensive and be proactive. If we disagree with our friends on the other side on the specifics, let us debate the issue, and let us have a vote on each and every substitute, and let us let majority rule. Democracy still works in this country.

Back in 1974, when this current system was brought into place, the shoe was on the other foot, and the Democrats were in charge here. They used this floor to debate these issues and bring forth what they thought were their priorities. We should do the same thing. If we have a legitimate disagreement, we should be on the offensive to say this is the way things used to be.

I am most concerned about the corrupting influences of soft money in the American political process. Mr. Speaker, alcohol, tobacco and gambling are not the influences that I want to drive this process. They are proliferating. Millions of dollars of unregulated, unlimited soft money from some of these influences that are not good for our country or good for our children or good for this process are now dominating this business. Pretty soon, we, as candidates, will not even control the messages in our own elections if we do not do something about it.

We can have an honest disagreement about whether we should fix the current system or even possibly go back to the way things used to be before Watergate. But, most of all, we should have the debate.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Georgia (Mr. LINDER) has 10½ minutes remaining. The gentleman from Texas (Mr. FROST) has 6½ minutes remaining.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

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

Mr. Speaker, I am struck by many different emotions. I do not intend to talk about the merits of the issue tonight. But I feel proud to look at Members on both sides of the aisle who, in the last 3 years, passed congressional accountability getting Congress under the same laws as the rest of the Nation. And I'm proud Republicans and Democrats working together passed gift ban and lobby disclosure legislation as well.

I am proud of the work of the Blue Dogs, and I see the gentlemen from California (Mr. FARR) and Mr. MILLER and the gentleman from Connecticut (Mr. GEJDENSON) who have worked hard on campaign finance reform legislators over many years.

I see other Members on the Democratic side of the aisle who helped forced this issue to come to the floor with a few Republicans. Ultimately, my leadership recognized that we did need to have a vote on campaign finance reform and I thank them for that.

It is going to be a dicey time because it is going to be truly an open debate. There is plenty of opportunity for mischief. Some can misuse the process. So reform minded Members on both sides of the aisle have got to make sure this does not happen.

I am proud also of the freshmen who made it a point to work together to find common ground. And I look forward to the next few weeks and the debate we will have.

I thank my colleagues who supported efforts to form debate and vote. And I thank my leadership for recognizing we need to have an open and honest debate. I hope and pray that, in the end, we can all be proud of the outcome.

Mr. FROST. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR).

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

Ms. KAPTUR. Mr. Speaker, I rise in strong opposition to this Titanic Gingrich stall proceeding and the previous question as well as the rule.

Mr. Speaker, throughout the recent history of the Rules Committee, no other major issue has ever been subjected to such a convoluted process as campaign finance reform is being accorded;

By proposing no less than 11 substitutes, and currently considering nearly 600 amendments, a ''doomsday'' scenario is being presented to the American people;

Previously, the Republican leadership blocked reform efforts, made promises for floor action and reneged and delayed, brought up meaningless legislation on the suspension calendar and made a mockery of the House. Today, the effort now is to kill reform by overloading the process;

The Republican leadership is proposing an endless debate that will take us well into the summer, will result in no resolution, and will fail to bring about much needed reform;

As our colleague JOE MOAKLEY has said, ''We'll just go through a lot of motion and not get any action.''

[From the Washington Post, May 21, 1998]

RAFT OF CAMPAIGN FINANCE REFORM PLANS MAY MEAN LENGTHY HOUSE DEBATE

(By Helen Dewar)

Rival camps in the fight over campaign finance legislation got the official go-ahead yesterday for a free-for-all on the issue in the House that could last well into summer.

Under a procedure approved by the Rules Committee after a lengthy hearing, the House will begin debate today on a dozen plans, including alternative proposals to ban or sharply curtail the unregulated ''soft money'' donations to political parties at the heart of fund-raising abuses in the 1996 presidential campaign.

No votes are anticipated until after Congress returns from its Memorial Day recess, and still to be determined by the committee is the problem of how to deal with an extraordinary load of amendments, including 586 that have been filed so far.

Never in the history of the Rules Committee has it faced such a formidable load of amendments, said committee Chairman Gerald B.H. Solomon R-N.Y.), who promised to prune the list to manageable proportions over the recess. He dismissed some lawmakers' complaints that the process could take all summer. ''It could but it won't,'' he said. Without interruption, the bill could be wound up in four days, he added.

Only a couple of months ago, House Republican leaders resorted to extraordinary means to block votes on the leading proposals, including a total soft-money ban proposed by Reps. Christopher Shays (R-Conn.) and Martin T. Meehan (D-Mass.) and a somewhat less stringent alternative proposed by a bipartisan group of freshmen.

But their tactics created an uproar, and, in order to keep from losing control of the House on the issue, GOP leaders did a sudden about-face and opted for a wide-open process providing for votes on a multitude of plans and even more numerous amendments to them.

As a result, the reform groups, once united in opposition to the leaders' tactics, are competing against each other, raising the possibility that none of the plans would get enough votes for passage—or that all of them would get bogged down in a struggle over amendments.

Now it was Democratic leaders, as well as their Republican counterparts, who were getting caught in the squeeze. Minority Leader Richard A. Gephardt (D-Mo.), who has been pushing for the Shays-Meehan bill, raised some hackles at a Democratic caucus Tuesday night when, according to several observers, he acknowledge without apparent disapproval that some Democrats would also support the freshmen's bill.

At yesterday's hearing, several lawmakers expressed concern that the debate might be stretched out over weeks, with interruptions for other business, making it little more than ''filler'' to plug into open spaces in the schedule. Several also objected to allowing amendments to each of the plans as they come up for votes, instead of holding them in reserve for action on the final version, saying this could lead to lethal delays. ''We'll just go through a lot of motion and not [get] any action,'' said Rep. Joe Moakley (Mass.), ranking the committee's ranking Democrat.

[From the Roll Call, May 21, 1998]

CONGRESS INSIDE OUT

(By Norman J. Ornstein)

MESSAGE TO MEMBERS: LOOK BEYOND RHETORIC BEFORE VOTING ON CFR

Campaign reform is back—for an extended debate in the House. The ''strange bedfellows'' coalition that Sen. Mitch McConnell (R-Ky) pulled together for the Senate debate on campaign reform is alive and well—from the National Right to Life Committee (NRLC) and the National Rifle Association to the ACLU.

Encouraged by House Majority Whip Tom DeLay (R-Texas) and McConnell crony Rep. Anne Northup (R-Ky), and led by the NRLC's Douglas Johnson, this coalition has used the guise of the First Amendment to fight bitterly and unrelentingly against any reform, and in particular against any proposal that changes the free-for-all jungle surrounding all electioneering communications that do not use ''magic words'' like ''vote for'' or ''vote against,'' and thus call themselves issue advocacy.

The coalition opposes the Shays-Meehan plan in this area, which would treat electioneering communications in the period just before an election by the same rules that apply to independent expenditures—disclosure of donors and ad sponsors, and contribution limits for groups.

It opposes with equal fervor the freshman Hutchinson-Allen plan, which is a simple, watered-down disclosure provision for a narrow category of electioneering ads that covers only sponsors, not donors—not even very large donors.

It opposed unalterably the Snowe-Jeffords Amendment in the Senate, which covered disclosure of large donors only for electronic communications of $10,000 or more within 60 days of an election, tailored at influencing directly the election or defeat of a candidate, and banned direct electioneering contributions from labor unions and corporations.

This anti-reform coalition has already been hitting House Members hard. The NRLC has made each provision on sham issue advocacy a right-to-life test, telling Members that a vote for any reform will harm their pro-life record, a serious problem for many GOP lawmakers. The group ran harsh negative radio ads against staunchy pro-life Rep. Asa Hutchinson (R-Ark) for his temerity in supporting any disclosure for any political ads.

Using the umbrella aegis of the ACLU, the coalition will cloak itself in the First Amendment, claiming it is just for free speech. Of course, the ACLU position is simply the position of the organization's current leadership; as Burt Neuborne, a former legal director of the ACLU has pointed out, virtually every previous leader in the ACLU has a sharply different view than the current elite in the organization on the constitutionality of campaign reform proposals.

But whatever the real civil liberties position on reform, Members of Congress should be more directly aware of what the members of this broad anti-reform coalition are for and against:

1. They are against disclosure. Some ''reformers,'' like Rep. John Doolittle (R-Calif), claim they are for lifting all limits and stiffening disclosure, relying on the market and informed consumers to self-regulate the political and election process. This would be a worthy position for debate if it were accurate.

But Doolittle, along with the NRLC's Johnson and the ACLU's Laura Murphy and Ira Glasser, are not for full disclosure. In fact, they are opposed to any and all disclosure of sources or sponsors of any political ads except the very narrow class of those using the few magic words.

They oppose any disclosure for the more than $150 million in ads run in 1996 that were self-labeled ''issue advocacy'' but, as an analytical study by the Annenberg School of Communications has shown, were candidate-centered, more harshly negative than any other category of ads, and clearly designed to elect or defeat particular candidates.

2. They are for secrecy, obfuscation and misdirection. The Annenberg study and good investigative reporting around the country in 1996 and 1997 showed that sham issue-advocacy ads were often designed to blindside candidates and to obscure deliberately the origin of the attacks. Funds often were laundered through two or more organizations, with vague names like ''Citizens for Reform,'' making it difficult to figure out the source of the campaign electioneering messages.

Attack campaigns were often run at the end of the campaign, leaving no time for the attacked candidate or the press to uncover the source. Very likely, some candidates and/or their party campaign committees colluded with outside groups to orchestrate ''issue advocacy'' attacks on their opponents, leaving the attacking candidate with his or her hands clean, able to disavow the vicious attack while reaping the benefit.

Absent any disclosure, we will see a whole lot more of this approach, aimed at confusing voters and blurring responsibility and accountability. Ask yourself if confusion, surreptitiousness, irresponsibility and unaccountability are the values of the First Amendment the Framers intended to put first.

3. They are for unlimited corporate and labor involvement in electioneering. Since 1907, corporations have been barred from using their funds to influence directly the outcome of elections. The same ban has existed for labor unions and their dues since the 1940s. Corporations and labor unions can use voluntary political action committees to mobilize their executives, employees and members to get involved in electing or defeating candidates for office.

But the so-called issue-advocacy campaigns have provided a gigantic loophole to allow corporations and unions to use unlimited (and undisclosed) amounts of corporate funds and union dues to target candidates, violating the intent of those existing laws.

Of course, some conservatives are trying to have it both ways, using the backdoor approach of ''paycheck protection'' to cripple labor unions while leaving corporations free to do what they want to shape election results. But the best way to stop labor unions and corporations from running these campaigns is to follow the legal traditions and ban their funds from use in electioneering—an approach opposed by this coalition.

4. They are for foreign involvement in American elections. Current laws ban the use of foreign money in American campaigns. But any source of funds, foreign or domestic, can be used for these so-called ''issue advocacy'' campaigns. And we will never know if foreign funds, including funds from the Chinese government, are used in ads that are clearly designed to elect or defeat candidates—there is no disclosure.

So here's a message for Members of Congress as you prepare to vote on reform plans and amendments that address this sham issue advocacy. Look beyond the threats and the mantra of the First Amendment offered by opponents of any reform in this area and consider the implications of the votes you cast:

Do you really want to vote against disclosure of the authors and funders of vicious attack ads?

Do you want to be on record voting for unlimited and undisclosed use of labor union dues and funds from corporate coffers to elect or defeat candidates?

Do you want to endorse a system allowing unlimited, unregulated and undisclosed use of foreign money to influence American elections?

Of course, there are reasonable and heavy-handed, constitutional and unconstitutional, ways to approach reforming this system. The freshman plan is frankly too week; it includes disclosure, but only of the groups sponsoring these ads, not the major sources of funds. The Shays-Meehan approach (which, in the interest of disclosure, I helped to craft) is a better one, although I fear that it will be hard to sell to the Supreme Court.

I am much more comfortable with the approach my colleagues and I subsequently devised that became the Snowe-Jeffords Amendment, which puts reasonable if broad limits on electioneering ads masquerading as ''issue advocacy'' by providing targeted disclosure of large contributors and keeping out corporate and labor funds.

Each of these approaches at least tries to apply the spirit and approach of the Buckley decision and a sensitivity to the First Amendment rights of issue advocates to a class of ads that are not issue advocacy and thus defy the intent of the Court. Whether too weak, too strong or just right, the zealots from the NRLC and the ACLU will be opposed.

Which side are you on?

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, it is 11 o'clock, 5 minutes of 11:00, and we are now finally getting to the debate on the rule on campaign finance reform, an interesting rule that brings 11 different viewpoints to the floor, allows an hour vote for each one, and unlimited amendments.

The question is whether this Congress is going to be serious about passing campaign reform. It was just mentioned that, when our party was in control, we and the 101st, 102d, and 103rd did pass campaign reform, and it was substantive.

It was a bill that, first of all, had the premise of fairness, a bill that did not favor one party over another. Second, it reduced the influence of special interest. Third, it leveled the playing field. And, fourth, it made access to the system by nontraditional candidates.

One of the bills that is in order is a bill that does that. It caps spending. It reduces individual PAC contributions. It reforms the role of wealthy donors and people who use their own money. It reforms the role of soft money. It finally puts the brakes on massive expenditures of money in the political realm that are now unregulated, undisclosed and outside the law, those that are independent expenditures.

I hope Members of the party will take a look at this bill. There are 106 coauthors on this side. It is the only bill that is on the floor that is really comprehensive, the only bill that addresses all the issues that the 101st, 102d, 103rd Congress did. If you adopt this rule, you will have a chance to do comprehensive campaign finance reform.

Mr. LINDER. Mr. Speaker, I yield myself 2½ minutes to point out to the gentleman that just spoke in the well that all of these wonderful bills and all of the previous approaches by the Democrats in previous Congresses left out one minor piece; that is, the special interests that spend more money in politics than all the rest combined, the labor unions, which spent, in the last cycle, in the last election, somewhere between $300 million and $500 million according to a Rutgers University study.

Are they at all impinged by any of these bills? Of course not. That is not soft money. You see, that is Democrat money. We will not abuse it at all.

I know the gentleman from Texas (Mr. FROST) said that the Shays-Meehan bill codifies the Beck decision. What the Beck decision says is that labor union members must approve their money being used for political activity.

This codification of the Beck decision says you may get your money back if it was used for political activity so long as you are no longer a union member, which is to say you have to leave the money to get your money back.

This is the sham. This is the game that is being played. Stop the union or stop the corporate soft money accounts. That is fine. We both get about $140 million a year. We both get $140 million over a 2-year cycle from three committees. But eliminate any opportunity from impinging on the labor unions which support the Democrats 100 percent.

The gentleman from Michigan (Mr. BONIOR) said that the airwaves are flooded with negative political attacks. Yes, of course they were, by unions. Of course they were. He was not there stopping them. In fact, he was welcoming them.

When the unions this year decided that occasionally they would support some friendly Republicans, the Democrat leadership wrote a whining letter to the union leadership and said, do not dare support Republicans. You are our guys.

The gentleman from Michigan (Mr. BONIOR) also said that, in this process, no political voice is heard unless they contribute up to $50,000. It is only a rich guy's game. He may be speaking from personal experience; but from my experience, and anyone that I know, we listen to all. We hear from everyone, whether or not they are contributors. If it is his experience only to listen to those who contribute $50,000, that is his problem, not the country's problem.

There is, indeed, an outside influence. If we are going to treat them fairly, we treat them all, including the labor union's money. But I will point out to the gentleman there is no controlling legal authority to do that.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, the gentleman from California (Mr. FAZIO) was going to point out that the facts of the gentleman from Georgia (Mr. LINDER) are wrong. We will get into that. But I take seriously your description of the issue. You say major changes are not needed to implement present law. I say implement present law and make major changes in the law. That is what you said.

Money is swamping the Democratic process and you are standing up, defending the status quo. The present system demeans the contributor. It demeans the recipient. It increases polarization, and it deepens public cynicism.

Shays-Meehan addresses both soft money and issue ads. I say to the minority who usually are not such defenders of free speech, free speech is not the same as unlimited paid campaign ads. Vote for Shays-Meehan.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time for the last speaker.

Mr. FROST. Mr. Speaker, I would inquire of the remaining time.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) has 4 minutes remaining. The gentleman from Texas (Mr. FROST) has 6½ minutes remaining.

□ 2300

Mr. FROST. Mr. Speaker, I yield one minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of this rule, because it will eventually allow us to vote on campaign finance reform, though I must say that it should be called the heel-dragging rule. There is so much debate scheduled on this issue, that I am afraid it could go on for months.

While I object to this filibuster tactic, I am pleased that it will finally allow us to vote on Shays-Meehan. Shays-Meehan bans soft money, it regulates third party expenditures, it will help to level the playing field between challengers and incumbents and it encourages greater disclosure. It will help

to turn the political process back to an election, instead of an auction that is going to the highest bidder, the person who spends the most money.

Mr. Speaker, we need to show the public that our elections are not for sale, our government is not for sale, and bring in real campaign finance reform. We need to vote on it before we go back and ask our constituents to vote for us.

Mr. FROST. Mr. Speaker, I yield one minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, the message the American people are sending us is clear: Reform our campaign finance system; reform it now. The Republican leadership does not get that message. They do not want to get that message.

There was a famous handshake three years ago with President Clinton. The Speaker said he was going to have a vote on campaign finance reform. Time and again that vote has been delayed. He promised a vote in March. It is May; we are still waiting.

Keep in mind the Speaker is in charge of this House. If he wanted a vote on campaign finance reform, we would have that vote tonight. That is what we ought to be doing, instead of delay and delay on this issue. And speaking of delay, the gentleman from Texas (Mr. DELAY), the Republican Majority Whip, is working vigorously to kill campaign finance reform. You should clap. We all know what you are doing.

The Republican leadership thinks we need more money in this political system. They would lift current limits on campaign contributions. They would increase the influence of the wealthiest in this country.

POINT OF ORDER

Mr. LEVIN. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman will state it.

Mr. LEVIN. Mr. Speaker, is hissing, and I mean this seriously if we are going to set precedent, is hissing from Members of this House in order?

The SPEAKER pro tempore. Hissing is not proper decorum in the House, under Jefferson's manual.

Mr. FROST. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. MILLER).

The SPEAKER pro tempore. The gentleman from California is recognized for 2 minutes.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I urge the people of America to pay close attention to this debate on campaign finance reform. Pay close attention, because you will hear so many different arguments, facts, figures and legal theories, not just today, but possibly for weeks to come. There will be so much that is said that it may be hard to follow what is really important in this debate.

There is only one thing that matters when all is said and done: Will your representative in Congress vote for the only meaningful campaign finance reform bill to be offered this year? Will your representative vote for the Shays-Meehan bill? That is all that matters.

The Shays-Meehan bill is the only bill that truly bans soft money and has the support of grassroots campaign finance reform organizations. Huge soft money contributions have become the leading corrupting influence in our political process today. Soft money contributions have caused politicians to do many things that they would not ordinarily do to abandon their constituents, to abandon the taxpayer, to abandon the public interest.

My friends, ask yourself this: With all of the evidence of the corrupting influence of campaign contributions on politics, why should it be so hard to reform this system? Why should it be so hard? The answer is because the Republican leaders who control this House are committed to blocking the successful passage of campaign finance reform.

The vast majority of Democrats are committed to real reform, and we have been joined by a small group of concerned Republicans. Together, hopefully, we represent a majority. But we do not control the action on the floor. That is why, ladies and gentleman across this country, you must pay attention.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

Mr. MILLER of California. Remember, there is only one way to determine whether or not your Representative truly believes and supports and is for campaign finance reform. That is, at the end of this debate, did they vote for the Shays-Meehan bill?

Mr. LINDER. Regular order.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

Mr. MILLER of California. * * *

The SPEAKER pro tempore. The time of the gentleman from California has expired.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, is it the regular order of the House for the gentleman to ignore the Speaker and to ignore the time limits and speak as long as he did?

Mr. MILLER of California. As did the gentleman when he just previously spoke. You were also told time expired, and you continued to speak.

The SPEAKER pro tempore. The rule of the House is the person speaking must cease speaking and his remarks are not transcribed when he is no longer under recognition. The gentleman is out of order.

Mr. LINDER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DELAY) the Majority Whip of the House.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 6½ minutes.

Mr. DELAY. Mr. Speaker, I think we just got——

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. Mr. Speaker, we have jeering back here on this side. Can we get some order in the House?

The SPEAKER pro tempore. The House will be in order.

Mr. DELAY. Mr. Speaker, I hope the American people just saw that display, because what they saw is Big Brother on the prowl again, Big Brother government trying to stifle the American people once again, and they are not even satisfied with open and honest debate. They want the debate on their terms, voting up or down on their bills, and they do not want any amendments. Well, I look forward to having a vigorous and complete debate about the state of our campaign laws, the laws that the gentleman from California enacted around 1974.

Some believe that the laws that govern our elections are in such desperate shape that we should erect a huge government bureaucracy and sharply limit the ability of our citizens to participate through further spending limits; others believe that things are so serious that we need to scrap the First Amendment to the Constitution, the premier political reform in human history, and start all over with a new First Amendment that restrains the exuberance of the American electorate; and the president uses campaign finance reform as a way to distract the American people from his own campaign's shameless abuse of the campaign laws.

Well, Mr. Speaker, I do not think we need to throw the baby out with the bath water. We do not need to scrap the First Amendment simply because the Clinton campaign could not abide by our own current laws.

Some of my colleagues, with very good intentions in their hearts, have crafted legislation that would make our Founding Fathers turn in their graves. The Shays-Meehan approach is a direct assault upon the First Amendment. The Hutchinson bill is only slightly less offensive. I contend that these two bills will erect a Byzantine set of laws that will gag citizens' speech, and, as the ACLU has warned, not exactly one of my best supporters, but they have warned that this barrier would inevitably be analogous to barbed wire fences. No individual or group would try to scale it, unless they were willing to become ensnared in a complicated set of laws, whose penalties would inflict serious pain.

Now, attempts to regulate and to require disclosure of issue advocacy that has been talked about a lot here

through statute and through FEC regulation have repeatedly been declared unconstitutional by the Supreme Court and other lower Federal courts.

□ 2310

The Court has always viewed issue advocacy as a form of speech that deserves the highest degree of protection, strict scrutiny under the First Amendment. And that Court has not only been supportive, has not only been supportive of issue advocacy, it has affirmatively stated that it is untroubled by the fact that issue advertisements may influence the outcome of an election. In fact, in Buckley v. Valeo the Justices stated, and I quote, and it is a wonderful quote, ''The First Amendment denies government the power,'' denies big brother the power, ''to determine that spending to promote one's political views is wasteful, excessive, or unwise. In a free society ordained by our Constitution, it is not the government, but the people, the people, individually, as citizens and candidates and collectively, the people as associations and political committees, they are the ones who must retain control over the quantity and the range of debate on public issues in a political campaign.'' Not this House, not some bureaucracy, not the FEC, not even you. The people, something we forget about in this Chamber a lot.

Freedom of speech is the issue. My friends who support Shays and other bills to restrict freedom of speech will deny that any First Amendment issue is at stake.

Well, Mr. Speaker, the First Amendment is not a loophole. Freedom and reform are not mutually exclusive principles. They go hand-in-hand.

The First Amendment is not an idea that should be tossed aside like a piece of garbage. It is our first freedom. It is our most critical freedom. It is the First Amendment in America's premier political reform. We should be expanding freedom. We should be encouraging participation in the political process.

Now, many campaign reform proposals go in the other direction. They clamp down on freedom, they gag citizens, they restrict freedom. I believe that there are things we can do to improve our campaign laws. We should have full disclosure so that the American people have quicker and better access to the information that they need to make informed decisions. And the proposal of the gentleman from California (Mr. DOOLITTLE) to require that all campaign contributions be posted on the Internet I think is an excellent way to get full disclosure.

We should cut out the bureaucracy and the paperwork so that more of our citizens feel more comfortable about running for office. We should lift up campaign limits so that middle America can solicit the support that they need to run for office, not only rich people.

We should oppose any effort to give welfare to politicians, and I urge my colleagues to stand for freedom and join with me in protecting the First Amendment from further attack.

Ms. ESHOO. Mr. Speaker, I rise today in support of the Meehan-Shays Bipartisan Campaign Reform Act of 1998. This legislation bans soft money and prevents this ban from being circumvented by loopholes and exceptions.

Campaign finance reform is essential to restoring public confidence in not only the political system but our legislative process, as evidenced by a Wall Street Journal/Hart poll in which 68% of the people questioned said they believed the American political system is more influenced by special interest money than it was 20 years ago. But we don't need polls to tell us that the American people distrust the way that soft money has infiltrated this institution. All of us in this body have heard from our constituents, and they are clamoring for reform.

Mr. Speaker, those opposed to this legislation would have us believe that the bill is unconstitutional, that it would erode our First Amendment rights to free speech. H.R. 3256 does not impinge on our constitutionally guaranteed rights to free speech. What it does do, however, is strengthen the definition of the term ''campaign ad'', so that groups who pay to produce and broadcast these ads must adhere to federal election laws. Specifically, under the Meehan-Shays Bipartisan Campaign Reform Act, any ad run within 60 days of an election that features a clearly identified federal candidate is considered ''campaigning'' and will have to be paid for according to FEC guidelines.

This provision ensures that the public is fully aware of who is paying for these so-called ''issue advocacy'' ads. It would be applied evenly, to Republicans and Democrats, corporations and unions, individuals and organizations. Mr. Speaker, we have a limited number of legislative days remaining in the 105th Congress. We are well into the 1998 election cycle. H.R. 3256 is a reasonable and well-crafted bipartisan approach to an issue that the American people want this Congress to address as soon as possible.

Let's do the right thing, let's pass real reforms to the Congressional Campaign System.

Mr. LINDER. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. HANSEN). 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.

Mr. FROST. 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 SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair 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 208, nays 190, not voting 35, as follows:

[Roll No. 186]

YEAS—208

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Buyer
Callahan
Calvert
Camp
Campbell
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
McCollum
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wolf
Young (AK)
Young (FL)

NAYS—190

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa

Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—35

Bateman
Berman
Boehner
Burr
Burton
Canady
Clement
Coburn
DeFazio
Deutsch
Foley
Gonzalez
Harman
Hefley
Herger
Johnson, Sam
Manzullo
Martinez
McCrery
McDade
Meeks (NY)
Oxley
Parker
Paul
Quinn
Scarborough
Shaw
Skaggs
Stark
Taylor (NC)
Torres
Towns
Waxman
Wicker
Yates

□ 2333

Ms. HOOLEY of Oregon changed her vote from ''yea'' to ''nay.''

Mr. PICKERING and Mr. KNOLLENBERG changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SESSIONS) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and the Workforce:

To the Congress of the United States:

I am pleased to present to you the 32nd annual report of the National Endowment for the Humanities (NEH), the Federal agency charged with advancing scholarship and knowledge in the humanities. The NEH supports an impressive range of humanities projects advancing American scholarship and reaching millions of Americans each year.

The public has been enriched by many innovative NEH projects. These included a traveling exhibit, companion book, and public programming examining the history and legacy of the California Gold Rush on the occasion of its Sesquicentennial. Other initiatives promoted humanities radio programming and major funding for the critically acclaimed PBS series, ''Liberty! The American Revolution.''

The NEH is also utilizing computer technologies in new and exciting ways. Answering the call for quality humanities content on the Internet, NEH partnered with MCI to provide EDSITEment, a website that offers scholars, teachers, students, and parents a link to the Internet's most promising humanities sites. The NEH's ''Teaching with Technology'' grants have made possible such innovations as a CD–ROM on art and life in Africa and a digital archive of community life during the Civil War. In its special report to the Congress, ''NEH and the Digital Age,'' the agency examined its past, present, and future use of technology as a tool to further the humanities and make them more accessible to the American public.

This past year saw a change in leadership at the Endowment. Dr. Sheldon Hackney completed his term as Chairman and I appointed Dr. William R. Ferris to succeed him. Dr. Ferris will continue the NEH's tradition of quality research and public programming.

The important projects funded by the NEH provide for us the knowledge and wisdom imparted by history, philosophy, literature, and other humanities disciplines, and cannot be underestimated as we meet the challenges of the new millennium.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Before recognizing Members for 5-minute special orders, the Chair will recognize 1-minute requests, but not beyond midnight.

TOBACCO LEGISLATION

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

Mr. GOODE. Mr. Speaker, there is legislation pending before both Houses of Congress that would raise the excise tax on tobacco products by $1.50 per pack. As a practical matter, these proposals result in a total tax increase of at least $500 billion over 25 years. This tax increase of a half trillion dollars will fall most heavily on the American working men and women. Those who make $30,000 per year pay 43 percent of the Federal tobacco tax burden.

□ 2340

The median income in the Fifth District of Virginia, which I represent, is less than $28,000 per year. In fact, if this excise tax of $1.50 per pack goes in, the Federal tax burden on the Virginia family in the Fifth District would be more than $500 per year, and that is a staggering tax increase for a family that is struggling to make ends meet.

HONORING FORMER SOUTH VIETNAMESE ARMY COMMANDOS

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

Ms. SANCHEZ. Mr. Speaker, 2 weeks ago the House Committee on National Security unanimously approved my amendment to honor and recognize the former South Vietnamese army commandos who were employees of the United States Government during the Vietnam War.

Today, the Members of this House had the opportunity to properly honor those brave men by supporting the Department of Defense authorization bill for fiscal year 1999.

Last year, the President signed into law legislation that I advocated to ensure that the United States Government honor a 30-year-old bad debt and pay these men who worked for the United States Government the wages they earned but were denied during the Vietnam War.

These individuals were trained by the Pentagon to infiltrate and destabilize communist North Vietnam.

Many of these commandos were captured and tortured while in prison for 15 to 20 years, and many never made it out.

Declassified DOD documents showed that U.S. officials wrote off the commandos as dead even though they knew from various sources that many were alive in Vietnamese prisons.

The documents also show that U.S. officials lied to the soldiers' wives, paid them tiny ''Death Gratuities'' and washed their hands of the matter.

For example, Mr. Ha Va Son was listed as dead by our Government in 1967, although he was known to be in a communist prison in North Vietnam. Today he is very much alive and well and living in Chamblee, GA. In my hand I hold the United States Government's official declaration of his death.

Because it was a secret covert operation, the U.S. Government thought they could easily ignore the commandos, their families, friends, and their previous contacts without anyone noticing.

As the Senior Senator from Pennsylvania said in a recent hearing, ''This is a genuinely incredible story of callous, inhumane, and really barbaric treatment by the United States.''

In the 104th Congress, this House approved legislation that required the Department of Defense to pay reparations to the commandos.

This bill would have provided $20 million to the commandos and their survivors, an average grant of about $40,000 per commando. It called them to be paid $2,000 a year for every year they were in prison, less than the wages they were due.

President Clinton signed this legislation into law (Public Law 104–201).

However, in April of 1997, the Department of Defense said that the statute was legislatively flawed and the Secretary could not legally make payments.

I then contacted Secretary Cohen requesting the administration's help to correct this error.

The administration responded by supporting inclusion of the funding in the Supplemental Appropriations Bill for fiscal year 1997 (Public Law 105–18)

Last year, I met at a public forum with 40 commandos from my district.

One individual shared with me his story of how he parachuted into enemy territory, was captured, convicted of treason, beaten, thrown into solitary confinement for 11 months, then moved among hard—labor camps for the next seven years.

His story is not unlike countless others. I request unanimous consent to insert into the record one story of this abuse headlined ''Uncommon Betrayal'' as reported by an Atlantia newspaper recently.

Today, however, I am pleased to provide this Body with this update.

To date, the Commando Compensation Board has been established at the Pentagon; 266 claims have been processed; 142 Commandos have been paid.

All this was made possible because of the commitment of this House.

After years of torture by the North Vietnamese, the callousness of being declared dead by the United States Government, and years of anguish over not receiving their rightful compensation—these brave men now deserve recognition.

The South Vietnamese Lost Army Commandos are finally a step closer to having the United States Government honor their contracts for their years of service to the United States Army.

I am proud that the members of the House had an opportunity to properly honor these brave men.

We can not bring those who perished back, but we can give these individuals the dignity and respect that's been so long overdue.

Who supports this resolution?

The State of California American Legion strongly endorses this amendment and I would like to submit the letter from the Department Commander Frank Larson into the RECORD.

In Commander Larson's letter dated May 1, 1998, he states, ''Ms. SANCHEZ: I'm sure if history were unfolded for all to see it would show that the South Vietnamese commandos, who aided the United States Government in covert actions against the North Vietnamese, were responsible for saving many American lives.''

It goes on to say: ''To that end, the same recognition due our soldiers, sailors, marines and airman involved in the Vietnamese Conflict should be afforded to the former South Vietnamese commandos, who so gallantly served and endured.''

It is also supported by: The Air Commando Organization; The Special Forces Organization.

American veterans who fought side by side with the Commandos, come to their defense in letters of support.

I would like to share with you what our soldiers have to say about the commandos.

This letter comes from a special forces NCO:

''Dear Sir: I had the opportunity to work with these men in which they not only risked their lives, but continually put themselves in harms way. * * * We are aware of terrible trials and conditions these men endured for so long and we would like to help * * *''

I would also like to take this opportunity to mention that last year, during POW/MIA recognition day, I had the opportunity to meet with several members of my veteran community.

I had the opportunity to speak with former POWs and family members whose loved ones were taken as prisoners or declared missing in action. Several of the veterans mentioned their support for the Commandos and urged that the Government honor its word.

Today, we gave these commandos what they really wanted, the distinction of honoring their service in the Vietnam War. And on behalf of the 40 commandos residing in the 46th Congressional District of California, I would like to thank the Members of this body for their commitment to honor and to recognize the former South Vietnamese army commandos.

Mr. Speaker, I submit for the RECORD a series of documents relating to these former South Vietnamese commandos.

UNCOMMON BETRAYAL

ABANDONED BY THE UNITED STATES, FORMER SOUTH VIETNAMESE COMMANDOS RISE FROM THE DEAD

On a moonlit night in May 1965, a large transport plane was flying low through the skies of northwestern North Vietnam on its way toward the town of Son La. Sitting nervously in the back of the plane was Team Horse, a group of five South Vietnamese commandos who were part of a covert CIA/Department of Defense (DOD) plan known as Operation Plan 34-Alpha (Oplan-34A). Team Horse was being parachuted in to reinforce the eight members of Team Easy, who had been deployed there in August 1963.

After making a first pass by the drop zone to release crates of supplies and a homing beacon, the plane circled around again and Team Horse parachuted out the back. Soon after hitting the ground the commandos knew their mission was a total bust. Soldiers from North Vietnam's Ministry of Public Security were waiting for them with rifles in hand. Even worse, Team Easy had been captured long ago, and the North Vietnamese had used that team's radio equipment to lure in Team Horse

The five commandos were tried and convicted of treason, and sent to prison. Only one, team leader Quach Nhung, would survive incarceration. After more than 20 years of hard labor in a Vietnamese prison, Nhung was released and immigrated to the United States in 1994. He is one of about 30 former South Vietnamese commandos involved in Oplan-34A who now live in the Atlanta metro area.

Recently declassified documents have revealed Oplan-34A to be one of the most tragic and disturbing aspects of the Vietnam War. ''When you read those documents, you want to cry,'' says Sedgwick Tourison, who used many of the papers to write Secret Army, Secret War—Washington's Tragic Spy Operation in North Vietnam. ''It's disgusting. We sold [those commandos] down the river and walked away, and we did it with such clean hands. And as I put in the book, nobody thought this would ever surface.''

Even Sen. Arlen Specter (R-Pa.), chairman of the Senate Select Committee on Intelligence, was shocked by the abuses. In a recent hearing on Capitol Hill, Specter said, ''This is a genuinely incredible story of callous, inhumane, and really barbaric treatment by the United States.''

A DOOMED OPERATION

From 1961 through the end of the decade, approximately 500 commandos separated into 52 small teams were sent into North Vietnam. Trained and funded first by the CIA, the operation was taken over by the DOD in 1964. At first, the teams were designed to gather intelligence, but their duties were later augmented to include psychological warfare and sabotage. Nearly of the commandos were either killed or captured almost immediately by the North Vietnamese, who had heavily infiltrated the operation with moles on the South Vietnamese side.

The entire operation was a failure, and documents now show that the CIA and the DOD knew that it was. Still, they continued to send commandos to their almost certain doom.

The United States' betrayal of the South Vietnamese commandos did not end there.

Once they had been captured, their families were notified not that they were prisoners of war or missing in action, but that they were dead. ''The Defense Department compounded that tragedy by simply writing off the lost commandos,'' Sen. John Kerry (D–Mass.) said during the recent Senate hearing. ''Drawing a line through their names as dead apparently in order to avoid paying monthly salaries [to the families].''

Says Tourison, who is the former Chief of Analysis in the Defense Intelligence Agency's office of POW/MIA affairs. ''It was money more than anything else. The bottom line was that we did not want to pay them any more. We were recruiting new guys and telling them that if anything happens we'll take care of you, and we never had any intention of doing that. And because of the moles the North Vietnamese had on the inside, they knew what we had done. And once they found out, that sent a message to Hanoi that we viewed the lives of those who serve for us as of no consequence.''

But the betrayal of the South Vietnamese commandos still did not end there.

Even though the United States knew many of them were in prison, nothing was ever done to get them out. As Kerry, himself a Vietnam War veteran, said at the hearing, ''After sending these brave men, on what by anyone's judgment were next to suicide missions, and after cutting off their pay, we then committed the most egregious error of all: We made no effort to obtain their release along with American POWs during the peace negotiations in Paris [in 1973]. As a result, many of these brave men who fought alongside us for the same cause spent years in prison, more than 20 years in some cases.''

The U.S. government is now trying to make up for its treatment of the commandos. On June 19, the Senate unanimously passed a bill that will pay the former commandos or their survivors $40,000 each, which basically amounts to an average of $2,000 back pay per year for an average of 20 years spent in prison.

Even though the commandos need the money and say they are looking forward to it, money cannot erase the past. ''Forty thousand dollars is nothing,'' says Nhung. ''No money can pay for my life.''

COMING TO AMERICA

Recently, three of the former South Vietnamese Oplan–34A commandos now living in the Atlanta area sit down to talk about their life during wartime and what moving to America has meant for them.

The site is the living room of a cramped apartment in an ersatz Colonial complex on a predominantly Asian stretch of Buford Highway just across the street from the Little Saigon strip mall. A group of happy, boisterous kids play on the landing. A strong odor of simmering soup rolls in from the kitchen.

Sitting around the table are Nhung, 52; Team Greco deputy commander Quash Rang, 58; and Team Pegasus leader Than Van Kinh, 67. Acting as interpreter is Ha Van Son, who had been part of a similar operation, Oplan–35. Son was imprisoned for 19 years and was also declared dead to his family by the United States. Members of his operation are also being considered for compensation in the Senate bill.

The men smoke almost constantly and emit a feeling of haggard world—weariness. They are all dressed similarly, in Oxford shirts and polyester slacks, and each has salt-and-pepper hair slicked down and parted to the side. When asked why they joined on with Oplan–34A, the answer comes quickly and not without some measure of incredulity.

''Because everybody wanted to fight against the communists,'' says Son, speaking for the group ''Nobody fight with any other reason.

Tourison's book is filled with wrenching stories of commandos being starved and tortured while in prison, and the experiences of these men were equally brutal. ''All of us were treated very, very badly,'' says Son. ''All of us were shackled and put in a small cell for a long time. After that they take us to a big room where we concentrate with everybody. But they give us only a little of rice a day. Sometime no rice, but yellow corn. But the corn that's used for animals, not for man.''

Even today, many of the commandos still suffer physically from their time spent in North Vietnamese prisons. ''When we got tortured, everybody has a problem in their body,'' comments Son. ''Like Than Van Kinh, all his teeth was broken out.'' With that cue, Kinh opens his mouth wide and taps his dentures with a finger. ''And my leg sometimes is paralyzed. Everybody is like that in the winter. Sometimes we get pain and hurt in the knee and in the body. You see the outside is good [i.e., they look fine from the outside], but inside sometimes from the fall to winter, if the weather changes, everybody gets pain.''

When they were released from prison, their lives improved little. Because they were branded as traitors in Vietnam, it was hard to get work. ''It was very, very difficult because when we go to apply for a job in Vietnam, the Vietnamese communists check and they know that this was a spy commando,'' says Son. ''So that everybody has to go to work as a farmer, and some drive a three-wheeled motorcycle in Saigon.''

Tourison maintains that U.S. policy toward the commandos has ruined more than just their own lives. ''In Vietnam, they are largely excluded from all legal forms of employment,'' he explains. ''Because of that, the children normally have to cut their education short to engage in child labor to support their parents. We have visited the sins on three generations. The older couples, their children, and their grandchildren.''

In Atlanta, some of the commandos are retired, but most are employed in various jobs. For example, Nhung works in a factory that manufacturers containers, Son is a sales and leasing consultant at an auto dealership, and Rang and his wife own a beauty salon in Duluth—aptly named American Nails.

Remarkably, the commandos harbor less anger toward the United States than one might expect. ''My friend Quach Nhung say, everybody still have a little anger with the leaders who betrayed us, but we know that they are not the representatives of U.S. government right now, they are not the American people,'' says Son, speaking for his comrade. ''Of course, everybody get angry, but we have to talk with the American people and the American government to [let them] know about the facts of history. We think we have to fight for justice.''

Son has been informed that the commandos should receive their back pay from the United States in about 18 months. When they receive those funds, the commandos plan to pool their resources. ''In Atlanta, we have about 30 commandos,'' explains Son. ''[We] will establish a joint venture corporation and maybe we will do a business like a Vietnamese market and everybody will work for our company, every commando and their family. And we think that corporation may develop for the commandos' children's future and take care of the old.''

By combining the money they will get from the U.S. government, the commandos will have a substantial amount to work with. However, Son admits that when Americans learn what happened to them and how much the government is planning on compensating the commandos, many of them are appalled. ''American people, they say, you are worth $4 million, not $40,000,'' says Son. ''That's very cheap. It's a little bit.''

LET'S SCREW THEM AGAIN

Even though life seems to be on the upswing for the commandos, there are still a few snags. Some of the commandos, including Than Van Kinh, have had problems bringing their families to this country. His wife and son have been denied entrance.

''His wife was denied with no reason,'' says Son, translating Kinh's words. ''We were very surprised because his wife was waiting for him from the time he was captured in North Vietnam.''

Tourison also expresses exasperation that Kinh's wife was denied immigration. ''Over the last 35 years, Than Van Kinh has spent maybe five or six years with his wife out of all of his adult life,'' he says. ''This is a woman who worships the ground this guy walks on. They've been married since the 1950s, and these sons of bitches [in the Immigration and Naturalization Service], with a stroke of the pen say, 'Well we just don't believe she's your wife.' What are you going to do at that point? That's just so damn cruel.''

There are also some 70 former still in Vietnam, some of whom have found getting less than easy.

''This is a relatively small community of people who paid a higher price than anyone who served us during the war,'' says Tourison. ''Unfortunately, the State Department and the INS give them absolutely no priority. What that means is that when they submit papers to the embassy in Bangkok applying to depart Vietnam or they get a request for more documents, it can take six months to a year until someone acts on it. And you know what happens?

''They die. I have gotten letters from commandos, and then six months later while they are waiting for an answer from the embassy in Bangkok, they die. It tears me apart every damn time that happens because it is so fundamentally wrong and so fundamentally counter to our own values. They were first in prison, last out, and let's screw them again.''

As the former commandos wait for their payment from the United States, as they wait for other comrades and stranded family members to join them, they say they are enjoying their lives in America but have not forgotten their homeland. ''Of course we miss Vietnam,'' says Son. ''And everybody, except Mr. Kinh, who is too old, every commando thinks if we get a start on an organization, if we have weapons and we have [money], we want to go back to Vietnam to fight with the communists again.

''My friend Quach Nhung, he say, of course now I like it in America, it is better than in Vietnam, but because we have sacrificed for our country and for freedom, we did not like to see the Vietnamese communists take over. We want Vietnam to be a country with freedom, human rights, and democracy.''

THE AMERICAN LEGION,
DEPARTMENT OF CALIFORNIA,
San Francisco, CA, May 1, 1998.

Hon. LORETTA SANCHEZ,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SANCHEZ: Be it war, police action or a conflict, everyone who participates puts certain things at risk. Mainly, their freedom, fortune and happiness—but for a cause. It is unfortunate that the turn of events which led to the culmination of the Vietnam Conflict are recorded as they are in history. But the cost of war does not necessarily stop with the signing of a peace agreement.

There are other residual costs that should be attended to. These costs are defined as recognition of those who served as our allies—those who believed in our causes, crossed the line and committed to the United States government. I'm sure if history were unfolded for all to see it would show that the South Vietnamese commandoes, who aided the United States government in covert actions against the North Vietnamese, were responsible for saving many American lives.

To that end, the same recognition due our soldiers, sailors, marines and airmen involved in the Vietnamese Conflict should be afforded to the former South Vietnam commandoes, who so gallantly served and endured.

Sincerely,

FRANK C. LARSON,
Department Commander.

DEATH GRATUITY

15 SEPT, 1967.

I, Ha Van Cau TD# 06935, received from Liaison Bureau the amount of 61,200 $VN for the death of Ha Van Son, son who was killed while on duty with FOB#1 Phu Bai. The above amount is paid as survivors death benefits.

This payment reflects full settlement of death gratuity and the United States Government is hereby released from any future claims arising from this incident.

Pay computation: 5,100 Monthly Pay12 Months = 61,200.

15 SEPT, 1967.

(Name of Employee) Ha Van Son.

(Pay Level and Step) EF–1.

(Number of Dependents) NONE.

(Date Employed) 30 May 1967.

(Date Separated) 2 Sept. 1967.

Reason for Separation: Deceased.

Period for which pay is computed: From 1 August to 2 September 1967.

Base pay: 169 (Daily) 33 (Days Worked) = Base pay due: 5,677$.

Other: Operational mission pay. 150 3 Days = 450 $VN

Total pay due on separation: 6,027$.

I have received the amount of 6,027$ which represents the total of all pay and allowances due me upon the termination of my employment.

HA VAN CAU (F)
(Signature of Employee)

CAUTION REGARDING TOBACCO LEGISLATION IS URGED

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

Mr. HEFNER. Mr. Speaker, there is legislation in both bodies of this Congress that would place an excise tax which I think is very punitive and does not serve the purpose that I believe that we should be doing.

I do not believe that anyone wants to support children smoking. Certainly from the time I was a small child, my father always talked to me about how not to smoke; that it was not good for my health. I do not think there is any argument about that.

But we have farmers all over this country that depend upon tobacco for their livelihood, and they have made investments, they have borrowed money against the allotments on their farms. So any legislation that passes this House should take into consideration the hardships that it could put on the hundreds of thousands of farmers all over this country that depend on tobacco for their livelihood.

I would urge every Member of this House to be very cautious before we enter into any legislation that affects the tobacco farmer.

PUNITIVE PROPOSALS REGARDING TOBACCO LEGISLATION IS AFFRONT TO FAIRNESS

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

Mr. ETHERIDGE. Mr. Speaker, I plead for sanity in this tobacco debate. The punitive proposals before Congress are an affront to fairness.

These proposed tax increases will devastate farmers who have done absolutely nothing wrong. Excise tax increases are regressive and fall hardest on the people who can least afford to pay. These tax increases could be as much as $900. They would wipe out the child tax credit that was passed last year and take two-thirds of the tax relief we have put in place for HOPE scholarships, and it is one of the largest tax increases ever. I was not elected to raise taxes on the 50 million people in America.

If we can protect farmers, and we certainly ought to stop children from smoking and provide the opportunity for that, and have a balanced agreement that reduces the litigation, protects farmers, and curbs teen smoking, I can support a responsible increase in prices. However, responsibility and balance has been abandoned. Tobacco litigation is no longer about responsibly reducing teen smoking, it is about punishment, and we must return to sanity and a fair debate on this bill and stop this shameful political posturing.

HEFTY AND REGRESSIVE TAX BILL BEING PUSHED

(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, if any legislative body in the world should stand up for families, it is the United States Congress.

Suddenly, in a mad rush to pursue political agendas, this body has nearly forgotten a certain group of families who, since the very beginning days of this Nation, have known for generations tobacco production as a way of life; a way of life that pays their bills, that helps build their communities' schools and hospitals and roads, and provides a way for thousands of hard working farmers throughout the Southeast to support their families.

Just a short while ago those farmers left their fields, after a full day of tending their crops, and right now, at this moment, they are wondering if they have any future.

Suddenly a hefty and regressive tax is being pushed that will hit hardest those in low- and middle-income brackets. Will families be first or last in this tax-and-spend agenda that will destroy the livelihood of honest working people?

May God help this body if it turns its back on the farmers, their families and their communities.

THE CLINTON NOMINEE FOR AMBASSADOR TO LUXEMBOURG

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, James Hormel, President Clinton's nominee for the ambassadorship of Luxembourg, is a businessman, a diplomat, a former dean of the University of Chicago law school, a one-time delegate to the United Nations' Human Rights Commission and a philanthropist.

He has wide bipartisan support from Senators JOSEPH BIDEN to ORRIN HATCH, as well as Secretary of State Madeleine Albright, and even Alice Turner, Hormel's ex-wife. The Senate Committee on Foreign Relations has also approved his nomination. But he has not been able to get through the other body in terms of confirmation. And the reason is, Mr. Speaker, Hormel is gay.

I say it is time now to treat Americans as Americans, to end the vicious discrimination against gays and lesbians in this Nation. That is why we must pass the Employment Nondiscrimination Act to eliminate discrimination against gays and lesbians in the workplace.

Mr. Speaker, no one is asking for any more benefits than any other citizen of the United States. We all are created equal. This is a shame and a travesty that this qualified gentleman cannot be approved and affirmed to be the ambassador of Luxembourg. We need to end discrimination now against gays and lesbians.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SESSIONS). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each until midnight.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 5 minutes.

VACATION OF SPECIAL ORDER AND GRANTING OF SPECIAL ORDER

Mr. FRANKS of New Jersey. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Arkansas.

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

There was no objection.

TRIBUTE TO CAPTAIN MICHAEL X. HARRINGTON

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to pay tribute to an outstanding law enforcement official who the public could always count on. Port Authority Police Captain Michael X. Harrington holds a record that would make even Cal Ripken envious. While the Baltimore Orioles shortstop was honored for playing 16 years without calling in sick, he has a long way to go to match Captain Harrington.

On May 15, Captain Michael Harrington retired from the Port Authority of New York and New Jersey after 43 years of service without ever missing a day of work.

When Captain Harrington began walking a beat for the Port Authority, Cal Ripken was not even born, the Dodgers were in Brooklyn, and there were just 48 States.

During his career, Captain Harrington outlasted eight U.S. Presidents, the Soviet Union, the Cold War and numerous fads, from coonskin caps to mood rings.

Mr. Speaker, the fact that Captain Harrington never missed a day's work is even more remarkable when we consider some of the obstacles he had to overcome. He found his way to work through blizzards, floods, hurricanes, blackouts and even riots. He did not let colds, or fevers above 102, injuries he sustained on the job, or even a broken wrist prevent him from doing his duty.

Throughout his distinguished career, Michael Harrington rose from patrolman to the rank of captain. Along the way he received numerous awards and commendations.

Through the years, he was commanding officer of a number of Port Authority transportation facilities, including the Lincoln Tunnel, the Holland Tunnel, the George Washington Bridge, Newark International Airport, and PATH.

At one point, he was in the incredibly demanding role of serving as commander of the Lincoln and Holland Tunnels, as well as the George Washington Bridge, all at the same time.

□ 2350

When we ask Captain Harrington who instilled in him the importance of hard work, he will tell us it was his father. Cornelius Harrington worked for more than 40 years as an operating engineer for Standard Oil of New Jersey; and, like his son, he never missed a day of work.

There is far more behind Captain Harrington's exceptional career than just an example of his father's setting. His uncompromising devotion to his job is a tribute to his own sense of duty to the public and the unwavering support of his wife of more than 40 years, Illene.

Mr. Speaker, I am sure I speak for all Members of the House when I thank Captain Harrington for his 4 decades of service to the community and wish him all the best in his retirement years. I cannot think of anyone who is more deserving of a relaxing and an enjoyable retirement.

TEEN PREGNANCY PREVENTION MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the month of May is Teen Pregnancy Prevention Month.

Teen pregnancy is a condition that can be prevented. But prevention is difficult for most Americans.

Parents must stop thinking that we cannot talk about sexual topics until children are older because kids are too young or will be too embarrassed.

Conversations need to start early because teens start early, TV starts early, and society starts early.

It is easier to find televised debates on abortion, gun control or affirmative action than it is to find a discussion about teen pregnancy prevention.

Our society likes issues that can be squeezed into ideological formats between commercial breaks. For many years the teen pregnancy prevention debate fit nicely into that televised ideological format.

There is no easy answer. Abstinence only was held by some. Abstinence is indeed the first and the best position for teens. Others thought contraceptive education was the major answer.

While this debate went on, in the late 1980s and early 1990s, the pregnancy rates continued to rise and people on both sides of this debate grew weary.

Many thoughtful leaders engaged and developed new programs that combine strong emphasis on abstinence, especially for teen 16 and younger, with counseling on contraception.

Teens need the knowledge and skills to avoid sex if they are not ready . . . they need to know that it is okay to say no.

And teens who are sexually active need knowledge on how to use contraception to avoid pregnancy and sexually transmitted diseases.

Recent studies confirm that it is important for teens to hear both messages . . . abstinence and contraception . . . which is known as a dual message.

The idea is that teaching clear values is essential to helping teens avoid early sexual activity and pregnancy; but contraceptive advise is needed as a backup.

I agree with University of Maryland professor William Galston who said: "contraceptive technique without values gets you no where, but values without a safety net is a risky business."

According to the May 1, 1998 report just released, by the U.S. Department of Health and Human Services, teen birth rates declined substantially nationwide between 1991 and 1996.

These recent declines reverse the 24 percent rise in the teen birth rate from 1986 through 1991. The report, which focused sole on teenage childbearing, between 1991 and 1996, reveals that teen birth rates declined for white, black, American Indian, Asian or Pacific Islander and Hispanic women between ages 15 and 19.

The latest state by state data, from 1995 shows that teen birth rates have declined in all 50 states and the District of Columbia.

The preliminary U.S. teen birth rate for 1996 was down 4 percent from 1995 and 12 percent from 1991.

This shows that our concerted effort to reduce teen pregnancy is succeeding.

The federal government, the National Campaign to Prevent Teen pregnancy, the private sector, parents and caregivers are all helping send the same message:

Don't become a parent until you are truly ready to support a child.

However, teen birth rates are higher today than in the mid 1980s, when the rate was at its lowest point.

It is critical that our nation continue to take a clear stand against teen pregnancy.

We have to instill in the total population that this is a problem to be solved by the whole community.

Mr. Speaker, we must all be engaged in this effort.

TRIBUTE TO IRVING E. ROGERS, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, I rise tonight to pay tribute to one of the Nation's great newspaper publishers, Irving E. Rogers, Jr., who passed away this morning at age 68. Mr. Rogers and his family have owned the Eagle-Tribune in Lawrence, Massachusetts, for 100 years, and it remains one of the last local family-owned newspapers in America.

Mr. Rogers was a successful businessman, a tireless advocate for his readers and his community, a generous philanthropist, a devoted friend and, above all, a dedicated family man. His passing will be mourned by all those who have benefited from his wisdom, good works, and adherence to the highest standards of journalism. The people of Greater Lawrence and the Merrimack Valley and the institutions that make it a great place to raise a family and run a business have lost a true champion and a giant of a man.

Born in Lawrence in 1929 and raised in North Andover, Mr. Rogers was educated at the Admiral Billard Academy in New London, Connecticut; Norwich University in Northfield, Vermont; and the Bently School of Accounting in Boston before joining the family newspaper business. He was the third generation of the Rogers family to run the Eagle-Tribune.

After 22 years as general manager of the newspaper, he was named publisher on August 29, 1982, by his late father Irving E. Rogers, Sr. This was 40 years to the day after the senior Rogers had been named publisher by his father, Scottish immigrant Alexander H. Rogers, who bought the two newspapers that became the Eagle-Tribune in 1898.

Today, Mr. Rogers' son, Irving E. ''Chip'' Rogers, III, carries on the family's proud tradition for a fourth generation of the newspaper's general manager. It is not an accident the Eagle-Tribune has been recognized as one of the best regional newspapers in the country. This is the result of Mr. Rogers' commitment to excellence in journalism and in maintaining the Eagle-Tribune as a family-owned newspaper that knows and cares about its community and covers it aggressively and fairly.

He received the highest honor in journalism when the Eagle-Tribune won in 1988 the Pulitzer Prize for general news reporting for its probe of the Massachusetts prison furlough program. Under his leadership, the newspaper was also a finalist for two other Pulitzer Prizes during this decade for an exposé on corruption by former hockey czar R. Alan Eagleson and coverage of the devastating fire that destroyed Malden Mills and the heroic effort to rebuild the plant in the heart of Lawrence's poorest neighborhood. The Eagle-Tribune has also been named New England Newspaper of the Year 13 times.

While winning awards every year for quality reporting and public service, Mr. Rogers was also making business decisions that allowed the Eagle-Tribune to remain in family hands at a time when publications across the country were being taken over by chains and corporations. He purchased the Andover Townsman, moved into New Hampshire when he bought the

Derry News, and recently negotiated the purchase of the Haverhill Gazette.

When the Eagle-Tribune outgrew its original headquarters in downtown Lawrence, he opened a modern plant in North Andover and became a pioneer in the use of photos, color graphics, and bold newspaper design, while insisting that his newspaper maintain traditional standards of fairness and language.

He was devoted, generous, and always available to his 400 employees. When the newspapers of New England were hit by a brutal recession in the early 1990s, advertising revenues declined and newsprint costs soared. Mr. Rogers was a rarity. He never issued a layoff notice.

He also showed an unwavering commitment to his private charity. He was a generous benefactor to so many important institutions in the Merrimack Valley led by the Rogers Family Foundation: the Lawrence Boys and Girls Club, Merrimack College, the United Way, Holy Family Hospital, Lawrence General Hospital, St. Mary's Church, the American Cancer Society, St. Michael's Church, and countless other community organizations. Every year, the Eagle-Tribune Santa Fund provides hundreds of thousands of dollars for the needy at Christmas.

Mr. Rogers was a friend to presidents and governors and leaders of industry. Despite his great influence, he was an unassuming man. He walked his dog every morning, he lunched at the Lantern Brunch in Andover, and fished off Seabrook Beach and Gloucester. His priority was always his wife Jacqueline and children Chip, Debbie, Marty and Steve, along with his grandchildren, and the nieces and nephews left by his brother, Allan B. Rogers, a former Eagle-Tribune editor who died in 1962.

Mr. Speaker, I am proud to have known Irving Rogers as a friend and admired him as a leader in our community. My wife Ellen and I extend our deepest sympathies to him and his family.

1990 CENSUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, last week the Subcommittee on the Census held a hearing on the 1990 census, and once again, the record is full of mistakes. Let me, once again, put the facts on the table so that Congress can make its decisions on what really happened.

Some of the errors at the hearing are because most of the members and staff on the Republican side are new to the issue, and get confused about which facts apply to 1990 and which to previous censuses. Some of the errors occurred because two of the three statisticians who testified had no previous experience with the census undercount issue. It is often useful to get fresh minds to think about a problem, but in this case it also resulted in people making statements when they did not have the facts to support their position.

At last week's hearing the statement was made that in 1990 50 percent of the undercount came from problems in the address list. That is wrong. The facts are that in 1990 70 percent of those missed were in households that were counted, and the address list was 97.5 percent accurate.

One of the witnesses criticized the Post Enumeration Survey because it put more people into the census than other methods said were missing. That too is wrong. The problem with the Post Enumeration Survey in 1990 was that despite the Census Bureau's best efforts, it will missed people. In 1990 the Post-Enumeration Survey showed that the census net undercount was 1.6 percent, while the Census Bureau's Demographic Analysis, which they have done since 1940, showed an undercount rate of 1.8 percent.

Finally, one witness said that after the 2000 census there would be no Demographic Analysis. That is just wrong.

These are not all of the mistakes made at that hearing, but they do illustrate the point that new-comers to this issue are having a hard time understanding the facts. What I find more troubling is the intentional misrepresentation of information.

At last weeks hearing the majority tried to suggest that the 1990 census was actually better than the 1980 census. To do that they took the measure of the undercount of Blacks from Demographic analysis in 1980 and compared it to the Post Enumeration Survey estimate of undercount for Blacks for 1990. I would hope that our Subcommittee Chairman is a good enough statistician to know that is wrong. In 1980, Demographic Analysis shows that the undercount of Blacks was 4.5 percent. In 1990 it was 5.7 percent. The Post Enumeration Survey shows a lower undercount for Blacks because even after the Census Bureau's best efforts, the survey still misses some people.

Unfortunately, it wasn't bad enough that the majority tried to minimize the fact that the census misses millions of poor and minorities. What they are really concerned about is that the Census Bureau may take out the millions of people who are counted twice. On the one hand they are saying that they don't care that millions of Blacks, and Hispanics and Asians and the poor are left out of the census. At the same time they are saying, don't you dare take out any of those white suburbanites who were counted twice in my district.

Following the 1990 census, there was a broad and bipartisan consensus that we had to find a better way to conduct the census—to improve the accuracy of the counts and to control the cost. For several years, while experts toiled over alternative methods and the Census Bureau threw its energies into research, Republican in Congress paid little attention. In fact, the appropriators kept prodding the Census Bureau to move more quickly to develop a plan for a better census.

It was not until consultants working for the Republican National Committee decided that the use of sampling methods to help fix the problem of undercounting might hurt Republicans in the redistricting process that the party leaders stood up and took notice. All of a sudden, scientific methods that the National Academy of Sciences, the General Accounting Office, and the Commerce Department's Inspector General had recommended a few years earlier, were no good. They were ''unscientific'' according to a report pushed through by the majority of the Government Reform Committee. All of a sudden, the National Academy of Science was politically biased, and the Census Bureau incapable of conducting a census. Even the Speaker of the House changed his position on the issue. In 1991 he supported adjustment. In 1996 he did a 360 degree turn around.

Now, I ask you: Is there any basis for the strong and sudden opposition to the use of scientific sampling methods in the 2000 census among Republicans, other than their concern that a more accurate count of African Americans and Hispanics and Asian Americans and poor people might somehow work to their disadvantage when political district boundaries are drawn.

Let's not try to fool the American people with talk about the efficacy of choosing this post-stratification variable or that. All of this minutiae is meant to do one thing only: to confuse the American people, to make them think the Census Bureau isn't capable of honest, to undermine public confidence in the entire census process. All because Republican leaders believe that their hold on political power will slip if the census more accurately reflects the true composition of our diverse population.

How utterly irresponsible! How utterly devoid of any shred of moral imperative. I ought to be angry or outraged. Instead I am genuinely saddened. Saddened because one of the most fundamental activities of our democratic system of governance is being belittled and diminished for partisan political advantage. The census and the Census Bureau may forever be tarnished by this organized effort to tear down the messenger because some people don't like the message.

This is a sad day and a low point for this Congress. I hope my Republican colleagues will look within themselves before they continue on their campaign of terror against science in general, and the Census Bureau in particular. I hope they will decide if they really want to live with the consequences of their plan to ensure that the 2000 census will continue to miss millions of people and that the Census Bureau will be diminished in the eyes of the public.

AGRICULTURAL TRADE MEASURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for the remaining time until midnight.

Mr. MORAN of Kansas. Mr. Speaker, today I rise to support additional trade measures important to the agriculture community.

On Tuesday of this week, just several days ago, I outlined broad trade issues that need to be addressed for U.S. farmers and ranchers. These include opening new markets, using our existing trade tools, and removing damaging sanctions that penalize the American producer.

Tonight I would like to cite a specific example of where our trade tools and policy should be used. The U.S. wheat gluten industry has a long-standing battle with the European Union regarding the EU's excessive subsidies and market-distorting trade barriers.

After several devastating years after which European imports rose substantially, the gluten industry took their case to the International Trade Commission, claiming that there had been substantial damage to the industry as a result of subsidized imports.

Following the presentation of evidence from both sides, the ITC ruled unanimously in favor of the U.S. gluten producers and recommended specific remedies that the U.S. should implement. These recommendations are now before President Clinton, who ultimately must decide whether or not to fight this fight for U.S. agriculture.

The decision before the President regarding the implementation of these GATT legal remedies is important not only for the wheat gluten industry but for all of agriculture. When Members of Congress, when I am asked to decide how to vote on the fast track, on MFN, or other trade-related legislation, I need assurance, we need assurance that our current trade problems under existing agreements will be aggressively pursued by the administration.

Mr. Speaker, I urge the President of the United States to act on behalf of American agriculture and to enforce the recommendations of the ITC for the wheat gluten industry.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 12:15 a.m.

Accordingly (at 11 o'clock and 59 minutes p.m.), the House stood in recess until approximately 12:15 a.m.

□ 0015

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 12 o'clock and 15 minutes a.m.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–547) on the resolution (H. Res. 445) waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION DISPOSING OF THE CONFERENCE REPORT ON S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–548) on the resolution (H. Res. 446) disposing of the conference report to accompany the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SAM JOHNSON of Texas (at the request of Mr. ARMEY) for today after 3:00 p.m. and for the balance of the week on account of attending the 25th National Reunion of American Prisoners of War.

Mr. WICKER (at the request of Mr. ARMEY) for Today after 3:30 p.m. and for the balance of the week on account of attending daughter's high school graduation.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 7:30 p.m. on account of physical reasons.

Mr. DEUTSCH (at the request of Mr. GEPHARDT) for today after 8:30 p.m. And the balance of the week on account of official business.

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. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. MEEHAN, for 5 minutes, today.
Mr. EDWARDS, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. MOLLOHAN, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Mr. COYNE, for 5 minutes, today.
Ms. SANCHEZ, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Mrs. CAPPS, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Ms. WATERS, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.

The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:

Mr. EHRLICH, for 5 minutes, today.
Mr. MORAN of Kansas, for 5 minutes, today.
Mr. ISTOOK, for 5 minutes, today.
Mr. BRADY of Texas, for 5 minutes, today.
Mr. METCALF, for 5 minutes, today.
Mrs. MORELLA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SERRANO) and to include extraneous matter:)

Mr. MENENDEZ.
Mr. PAYNE.
Mr. KIND.
Ms. NORTON.
Mr. HALL of Ohio.
Mr. MILLER of California in two instances.
Mr. NEAL.
Mrs. CAPPS.
Mr. MURTHA.
Ms. KAPTUR.
Mr. KANJORSKI.
Mr. MCGOVERN.
Mr. UNDERWOOD.
Mr. STARK.
Mr. THOMPSON.
Ms. BROWN of Florida.
Mr. CONDIT.
Ms. LOFGREN.
Mr. TOWNS.
Mr. DEFAZIO.
Ms. HARMAN.
Mr. KUCINICH.
Mr. ABERCROMBIE.
Ms. STABENOW.
Mr. SABO.
Mr. SHERMAN.

(The following Members (at the request of Mr. MORAN of Kansas) and to include extraneous matter:)

Mr. MCKEON.
Mr. BEREUTER.
Ms. DUNN.
Mr. SAM JOHNSON of Texas.
Mr. GOODLING.
Mr. CUNNINGHAM.
Mr. OXLEY.
Mr. MCKEON.
Mrs. ROUKEMA.
Mr. GALLEGLY.
Mrs. MORELLA.
Mr. EWING.
Mr. BRADY of Texas.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 17 minutes a.m.), the House adjourned until today, Friday, May 28, 1998, at 9 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 State. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> ''I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.''

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 105th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable RICHARD A. BRADY, First Pennsylvania.

NOTICE OF DECISION TO TERMINATE RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, May 12, 1998.

Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303 of the Congressional Accountability Act of 1995 (''CAA''), 2 U.S.C. §1383, I am issuing the enclosed Notice of Decision to Terminate Rulemaking. This Notice announces the termination of a proceeding commenced by a Notice of Proposed Rulemaking and a Supplementary Notice of Proposed Rulemaking published in the Congressional Record on October 1, 1997 and January 28, 1998, respectively.

I would appreciate it if you would have this enclosed Notice of Decision to Terminate Rulemaking published in the Congressional Record.

Sincerely yours,

RICKY SILBERMAN
Executive Director

Enclosure.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Amendments to Procedural Rules

NOTICE OF DECISION TO TERMINATE RULEMAKING

Summary: On October 1, 1997, the Executive Director of the Office of Compliance published a notice in the Congressional Record proposing, among other things, to extend the Procedural Rules of the Office to cover the General Accounting Office and the Library of Congress and their employees with respect to alleged violations of sections 204–207 of the Congressional Accountability Act of 1995 (''CAA''). These sections apply the rights and protections of the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, and the Uniformed Services Employment and Reemployment Act, and prohibit retaliation and reprisal for exercising rights under the CAA. The notice invited public comment, and, on January 28, 1998, a supplementary notice was published inviting further comment. Having considered the comments received, the Executive Director has decided to terminate the rulemaking and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

Availability of comments for public review: Copies of comments received by the Office with respect to the proposed amendments are available for public review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Officer of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice will be made available in large print or braille or on computer disk upon request to the Office of Compliance.

Supplementary Information:

The Congressional Accountability Act of 1995 (''CAA''), 2 U.S.C. §1301 *et seq.*, applies the rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204–206 of the CAA explicitly cover the General Accounting Office (''GAO'') and the Library of Congress (''Library''). These sections apply the rights and protections of the Employee Polygraph Protection Act of 1988 (''EPPA''), the Worker Adjustment and Retraining Notification Act (''WARN Act''), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (''USERRA'').

On October 1, 1997, the Executive Director of the Office of Compliance (''Office'') published a Notice of Proposed Rulemaking (''NPRM'') proposing to extend the Procedural Rules of the Office to cover GAO and the Library and their employees for purposes of proceedings involving alleged violations of sections 204–206, as well as proceeding involving alleged violations of section 207, which prohibits intimidation and retaliation for exercising rights under violations of section 207, which prohibits intimidation and retaliation for exercising rights under the CAA. 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997). The Library submitted comments in opposition to adoption of the proposed amendments and raising questions of statutory construction. On January 28, 1998, the Executive Director published a Supplementary Notice of Proposed Rulemaking (''Supplementary NPRM'') requesting further comment on the issues raised by the Library. 144 Cong. Rec. S86 (daily ed. Jan. 28, 1998). Comments in response to the Supplementary NPRM were submitted by GAO, the Library, a union of Library employees, and a committee of the House of Representatives.

The comments expressed divergent views as to the meaning of the relevant statutory provisions. The CAA extends rights, protections, and procedures only to certain defined ''employing offices'' and ''covered employees.'' The definitions of these terms in section 101 of the CAA, which apply throughout the CAA generally, omit GAO and the Library and their employees from coverage, but sections 204–206 of the CAA expressly include GAO and the Library and their employees within the definitions of ''employing office'' and ''covered employee'' for purposes of those sections. Two commenters argued that the provisions of sections 401–408, which establish the administrative and judicial procedures for remedying violations of sections 204–206, refer back to the definitions in section 101 ''without linking to the very limited coverage'' of the instrumentalities in sections 204–206, and therefore do not cover GAO and the Library and their employees. However, two other commenters argued to the contrary. One stated that, because employees of the instrumentalities were given the protections of sections 204–206, ''the concomitant procedural rights'' of sections 401–408 were also conferred on them; and the other commenter argued that construing the CAA to grant rights but not remedies would defeat the stated legislative purpose, ''since a right without a remedy is often no right at all.'' The four commenters also expressed divergent views about whether GAO and the Library and their employees, who were not expressly referenced by section 207, are nevertheless covered by the prohibition in that section against retaliation and reprisal for exercising applicable CAA rights.

Having considered that the comments received express such opposing views of the statute, the Executive Director has decided to terminate the rulemaking without adopting the proposed amendments and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

In light of the statutory questions raised, it remains uncertain whether employees of GAO and the Library have the statutory right to use the administrative and judicial procedures under the CAA, and whether GAO and the Library may be charged as respondent or defendant under those procedures, where violations of sections 204–207 of the CAA are alleged. The Office will continue to accept any request for counseling or mediation and any complaint filed by a GAO or Library employee and/or alleging a violation by GAO or the Library. Any objection to jurisdiction may be made to the hearing officer or the Board under sections 405–406 or to the court during proceedings under sections 407–408 of the CAA. Furthermore, the Office will counsel any employee who initiates such proceedings that a question has been raised as to the Office's and the courts' jurisdiction under the CAA and that the employee may wish to preserve rights under any other available procedural avenues.

The Executive Director's decision announced here does not affect the coverage of GAO and the Library and their employees with respect to proceedings under section 215 of the CAA (which applies the rights and protections of the OSHAct) or *ex parte* communications. On February 12, 1998, the Executive Director, with the approval of the Board, published a Notice of Adoption of Amendments amending the Procedural Rules to include such coverage. 144 Cong. Rec. S720 (daily ed. Feb. 12, 1998).

Signed at Washington, DC., on this 12th day of May, 1998.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9213. A letter from the Deputy Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Chicago Board of Trade Futures Contracts in Corn and Soybeans; Order to Designate Contract Markets and Amending Order of November 7, 1997, as Applied to Such Contracts— received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9214. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Department's final rule—Bacillus Thuringiensis Subspecies tolworthi Cry9C Protein and the Genetic Material Necessary for its Production in Corn; Exemption from the Requirement of a Tolerance [OPP–300659; FRL–5790–3] (RIN–2070–AB78) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9215. A letter from the Director, Office of Regulatory Management Agency, Environmental Protection Agency, transmitting the Agency's final rule-Hydroxyethylidine Diphosphonic Acid; Exemption From the Requirement of a Tolerance [OPP–300658; FRL–5790–1] (RIN: 2070–AB78) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9216. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Section 8 Rental Voucher and Certificate Programs; Restrictions on Leasing to Relatives [Docket No. FR–4149–F–02] (RIN: 2577–AB73) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9217. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Amendment of Affordable Housing Program Regulation [Docket No. 98–18] (RIN: 3069–AA73) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9218. A letter from the Acting Assistant Secretary, Department of Labor, transmitting the Department's final rule—Prevailing Wage Policy for Researchers Employed by Colleges and Universities, College and University Operated Federally Funded Research and Development Centers, and Certain Federal Agencies—received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9219. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Metric Conversion of Tire Standards [Docket No. NHTSA–98–3837, Notice 1] (RIN: 2127–AH07) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9220. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Metric Conversion [NHTSA–98–3836] (RIN: 2127–AG55) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9221. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Control of Emissions of Air Pollution from New CI Marine Engines at or above 37 Kilowatts [FRL–6014–4] (RIN: 2060–AH65) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9222. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Number Under The Paperwork Reduction Act [FRL–6013–2] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9223. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tolerance Processing Fees [Opp-30114; FRL–5775–4] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9224. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—a revision of the Enforcement Policy (NUREG–1600, Rev. 1) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9225. A letter from the General Counsel, Arms Control and Disarmament Agency, transmitting copies of the English and Russian texts of the three joint statements negotiated by the Joint Compliance and Inspection Commission and concluded during JCIC-XVII; to the Committee on International Relations.

9226. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report, determination and certification on a chemical weapons proliferation sanctions matter, pursuant to section 81(b)(3) of the Arms Export Control Act, as amended, and section 11C(b)(3) of the Export Administration Act of 1979, as amended; to the Committee on International Relations.

9227. A letter from the Service Federal Register Liaison Officer, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Emergency Rule to Establish and Additional Manatee Sanctuary in Kings Bay, Crystal River, Florida (RIN: 1018–AE47) received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9228. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Wrightstown, NJ [Airspace Docket No. 98–AEA–01] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9229. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Downingtown, PA [Airspace Docket No. 98–AEA–04] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9230. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, Maryland [CGD 05–98–031] (RIN: 2115–AE46) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9231. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Martin, SD [Airspace Docket No. 97–AGL–62] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9232. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Casey, IL [Airspace Docket No. 98–AGL–10] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9233. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; New Rochelle Harbor, New York [CGD1–95–002] (RIN: 2115–AE47) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9234. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Nauvoo, IL [Airspace Docket No. 98–AGL–12] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9235. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; San Juan, Puerto Rico [COTP SAN JUAN 97–045] (RIN: 2115–AA97) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9236. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Lakeview, MI [Airspace Docket No. 98–AGL–14] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9237. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; FLEET WEEK Air/Sea Demonstrations, Hudson River, New York [CGD01–98–041] (RIN: 2121–AA97) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9238. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Milwaukee, WI [Airspace Docket NO. 98–AGL–5] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9239. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Eastland Municipal, TX [98–ASW–20] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9240. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Gallup, NM [Airspace Docket No. 98–ASW–19] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9241. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Cleveland, OK [Airspace Docket No. 97–ASW–29] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9242. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Pawnee, OK [Airspace Docket No. 98–ASW–02] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9243. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Wagoner, OK [Airspace Docket No. 98–ASW–031] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9244. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Coalgate, OK [Airspace Docket No.98–ASW–01] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9245. A letter from the General Counsel, Department of Transportation, transmitting

the Department's final rule—Revision of Class E Airspace; Bristow, OK [Airspace Docket No. 98–ASW–04] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9246. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Claremore, OK [Airspace Docket No. 98–ASW–05] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9247. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Shawnee, OK [Airspace Docket No. 98–ASW–06] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9248. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Wautoma, WI [Airspace Docket No. 98–AGL–7] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9249. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Muskogee, OK [Airspace Docket No. 98–ASW–12] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9250. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Portland, IN [Airspace Docket No. 98–AGL–8] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9251. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Poteau, OK [Airspace Docket No. 98–ASW–13] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9252. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Pryor, OK [Airspace Docket No. 98–ASW–14] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9253. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Stillwater, OK [Airspace Docket No. 98–ASW–15] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9254. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Millersburg, OH [Airspace Docket No. 98–AGL–9] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9255. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Tahlequah, OK [Airspace Docket No. 98–ASW–16] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9256. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Grove, OK [Airspace Docket No. 98–ASW–07] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9257. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Chicago, IL [Airspace Docket No. 98–AGL–11] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9258. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Henryetta, OK [Airspace Docket No. 98–ASW–08] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9259. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Watford City, ND, and modification of Class E Airspace; Williston, ND [Airspace Docket No. 98–AGL–15] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9260. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Idabel, OK [Airspace Docket No. 98–ASW–09] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9261. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; McAlester, OK [Airspace Docket No. 98–ASW–10] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9262. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Miami, OK [Airspace Docket No. 98–ASW–11] received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9263. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Models B200, B200C, and B200T Airplanes [Docket No. 97–CE–72–AD; Amendment 39–10516; AD 98–10–05] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9264. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International CFM56–3, -3B, -3C, -5, -5B, and -5C Series Turbofan Engines [Docket No. 97–ANE–54–AD; Amendment 39–10523, AD 98–10–11] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9265. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; REVO, Incorporated Models Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, and Lake LA–4–200 Airplanes [Docket No. 98–CE–48–AD; Amendment 39–10524; AD 98–10–12] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9266. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes [Docket No. 96–NM–257–AD; Amendment 39–10526; AD 98–10–14] (RIN: 2120–AA64) received May 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9267. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Revenue Ruling 98–28] received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9268. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—the domestic asset/liability and investment yield percentages of taxable years beginning after December 31, 1996, for foreign companies conducting insurance businesses in the United States [Revenue Procedure 98–31] received May 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9269. A letter from the Executive Director, Office of Compliance, transmitting notice of decision to terminate rulemaking for publication in the Congressional RECORD, pursuant to Public Law 104—1, section 303(b) (109 Stat. 28); jointly to the Committees on House Oversight and Education and the Workforce.

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. COBLE: Committee on the Judiciary. H.R. 1690. A bill to amend title 28 of the United States Code regarding enforcement of child custody orders; with amendments (Rept. 105–546). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCINNIS: Committee on Rules. House Resolution 445. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 105–547). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 446. Resolution disposing of the conference report to accompany the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes (Rept. 105–548). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BERRY (for himself, Mr. DINGELL, Mr. STARK, Mr. CLEMENT, Mr. DEFAZIO, Mr. LEWIS of Georgia, Ms. FURSE, Mr. BOUCHER, and Mr. ALLEN):

H.R. 3925. A bill to establish the Prescription Drug Price Monitoring Commission; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DUNN of Washington:

H.R. 3926. A bill to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the

Supreme Court) may not be appointed as a judge of the same court, and for other purposes; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. JEFFERSON, and Mr. CRANE):

H.R. 3927. A bill to amend the Internal Revenue Code of 1986 to restrict the use of tax-exempt financing by governmentally owned electric utilities and to subject certain activities of such utilities to income tax; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 3928. A bill to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York; to the Committee on Resources.

By Mr. GILMAN:

H.R. 3929. A bill to extend the authorization for the Upper Delaware Citizens Advisory Council; to the Committee on Resources.

By Mr. GRAHAM (for himself, Mr. SOUDER, Mrs. MYRICK, Mr. HAYWORTH, Mr. SESSIONS, Mr. BLUNT, Mr. DUNCAN, Mr. MCINTOSH, Mr. NORWOOD, and Mr. SHADEGG):

H.R. 3930. A bill to ensure that the Federal Government adheres to its commitment to State and local governments to share in the expense of educating children with disabilities; to the Committee on Education and the Workforce.

By Mr. JOHNSON of Wisconsin:

H.R. 3931. A bill to provide for the appointment of 1 additional Federal district judge for the eastern district of Wisconsin, and for other purposes; to the Committee on the Judiciary.

By Mrs. MALONEY of New York (for herself, Mr. MILLER of California, Mr. MENENDEZ, Mr. VENTO, Mr. HINCHEY, Mr. GUTIERREZ, Mr. LUTHER, Mr. KLECZKA, Mr. SANDERS, and Mr. SCHUMER):

H.R. 3932. A bill to assure that the public receives the full amount of royalties owed on oil production from Federal public lands and the Outer Continental Shelf; to the Committee on Resources.

By Mr. MICA (for himself and Mr. PICKETT):

H.R. 3933. A bill to amend titles 5 and 37 of the United States Code to allow members of the armed forces to participate in the Thrift Savings Plan; to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, 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. MILLER of California (for himself, Mr. FALEOMAVAEGA, Mr. MARKEY, Mr. KENNEDY of Rhode Island, Mr. OLVER, Mr. FRANK of Massachusetts, Ms. ESHOO, Ms. FURSE, Mr. GEJDENSON, Mr. STARK, Mr. LEWIS of Georgia, and Mr. BARRETT of Wisconsin):

H.R. 3934. A bill to reform the concession programs of the National Park Service and to provide for the use of the revenues generated by such reforms to enhance resource protection and visitor use and enjoyment of the National Park System; to the Committee on Resources.

By Mr. MOAKLEY:

H.R. 3935. A bill to direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce.

By Mr. REDMOND:

H.R. 3936. A bill to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed, which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize acquisition of those lands, and for other purposes; to the Committee on Resources.

By Mr. RUSH:

H.R. 3937. A bill to amend title XVIII of the Social Security Act to bar hospital limitations on emergency room workers treating emergency cases in immediate vicinity of emergency room entrance; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. CHRISTENSEN, Mr. RAMSTAD, Mrs. JOHNSON of Connecticut, Mr. COBURN, Mr. ROMERO-BARCELO, Mr. HAYWORTH, Mr. NEAL of Massachusetts, Mr. BUNNING of Kentucky, Mr. BURTON of Indiana, and Mr. HILLIARD):

H.R. 3938. A bill to permit the approval and administration of drugs and devices to patients who are terminally ill; to the Committee on Commerce.

By Mr. FATTAH:

H.R. 3939. A bill to designate the United States Postal Service building located at 658 63rd Street, Philadelphia, Pennsylvania, as the ''Edgar C. CAMPBELL, Sr., Post Office Building''; to the Committee on Government Reform and Oversight.

By Mr. STARK (for himself, Mrs. THURMAN, Mr. CUMMINGS, Mr. HASTINGS of Florida, Ms. KAPTUR, and Ms. BROWN of Florida):

H.R. 3940. A bill to amend title XVIII of the Social Security Act to provide for full payment rates under Medicare to hospitals for costs of direct graduate medical education of residents for residency training programs in specialties or subspecialties which the Secretary of Health and Human Services designates as critical need specialty or subspecialty training programs; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND (for himself and Mr. WHITFIELD):

H.R. 3941. A bill to amend the United States Enrichment Corporation Privatization Act; to the Committee on Commerce.

By Mrs. TAUSCHER (for herself, Ms. LOFGREN, Mr. FROST, Mr. FAZIO of California, Mr. KENNEDY of Rhode Island, and Mr. TORRES):

H.R. 3942. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Ways and Means.

By Mr. BROWN of California (for himself and Mrs. MORELLA):

H. Con. Res. 279. Concurrent resolution to honor the ExploraVision Awards Program and to encourage more students to participate in this innovative national student science competition; to the Committee on Education and the Workforce.

By Mr. GUTIERREZ (for himself, Mr. PALLONE, Mr. EVANS, Ms. FURSE, Mr. OLVER, Mr. SKAGGS, Mrs. MALONEY of New York, Mr. ABERCROMBIE, Mr. BLUMENAUER, Ms. STABENOW, Mr. UNDERWOOD, Mr. WAXMAN, and Mr. LIPINSKI):

H. Con. Res. 280. Concurrent resolution to provide for the development and implementation of a comprehensive energy conservation plan for the United States Congress; to the Committee on Transportation and Infrastructure.

By Mr. FOLEY (for himself and Mr. LANTOS):

H. Res. 443. A resolution expressing the sense of the House of Representatives that the Secretary of State should seek certain commitments from the governments of Poland, Hungary, and the Czech Republic regarding the payment of insurance benefits owed to victims of the Nazis (and their beneficiaries and heirs) by those countries; to the Committee on International Relations.

By Mr. GEPHARDT (for himself, Mr. MILLER of California, Mr. BOSWELL, Mr. SANDERS, Mr. VISCLOSKY, Mr. NEAL of Massachusetts, Mr. VENTO, Mr. MATSUI, Mr. LEVIN, Ms. DELAURO, Mr. LANTOS, Mr. FRANK of Massachusetts, Mr. LAFALCE, Mr. KENNEDY of Rhode Island, Mr. OLVER, Mr. TORRES, Mr. MORAN of Virginia, Mr. ROMERO-BARCELO, and Mr. BONIOR):

H. Res. 444. A resolution supporting the Global March Against Child Labor; to the Committee on International Relations, and in addition to the Committee on Education and the Workforce, 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. NEUMANN (for himself, Mr. HORN, Mr. ARMEY, Mr. FAWELL, Mr. ROYCE, Mr. SESSIONS, Mr. BARTON of Texas, Mr. ENGLISH of Pennsylvania, Mr. HAYWORTH, Mr. CALVERT, and Mr. BURTON of Indiana):

H. Res. 447. A resolution expressing the sense of the House of Representatives regarding financial management by Federal agencies; to the Committee on Government Reform and Oversight.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. REDMOND:

H.R. 3943. A bill for the relief of Hilario Armijo, Timothy W. Armijo, Josephine and Mike Baca, Vincent Chavez, David Chinana, Victor Chinana, Ivan T. Gachupin, Michael Gachupin, Frank Madalena, Jr., Dennis Magdalena, Mary Pecos, Lawrence Seonia, Roberta P. Toledo, Nathaniel Tosa, Allen L. Toya, Jr., Ethel Waquie, and Veronica Waquie; to the Committee on the Judiciary.

By Mr. REDMOND:

H.R. 3944. A bill for the relief of Akal Security, Incorporated; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Ms. ESHOO.

H.R. 107: Mr. MCDADE and Mr. HOSTETTLER.

H.R. 158: Mr. NUSSLE, Mr. WELDON of Florida, Mr. TRAFICANT, Mr. COLLINS, Mr. HILLEARY, Mr. CANADY of Florida, Mr. FOLEY, Mr. BARR of Georgia, Mr. HUNTER, and Mr. RODRIGUEZ.

H.R. 371: Mr. KLECZKA, Mr. GUTIERREZ, Mr. LEACH, and Mr. MCDERMOTT.

H.R. 465: Mr. PAPPAS.

H.R. 543: Mr. ROMERO-BARCELO, Mr. METCALF, Mr. PAPPAS, and Mr. HUTCHINSON.

H.R. 619: Mr. ADAM SMITH of Washington, Mr. MICA, Mrs. MINK of Hawaii, Ms. SLAUGHTER, and Mr. CALVERT.

H.R. 814: Mr. LIPINSKI.
H.R. 864: Mr. LEWIS of California, Ms. DEGETTE, Mrs. KELLY, Ms. LEE, and Mrs. MYRICK.
H.R. 872: Mr. ANDREWS, Mr. LOBIONDO, Mr. MENENDEZ, and Mr. ADAM SMITH of Washington.
H.R. 900: Mr. PAPPAS.
H.R. 979: Mr. HUNTER, Mr. MANTON, Mr. STOKES, and Mr. COSTELLO.
H.R. 1018: Mr. ETHERIDGE.
H.R. 1100: Mr. HALL of Texas.
H.R. 1126: Mr. FORD, Mr. BLAGOJEVICH, Mr. TAUZIN, and Mr. WICKER.
H.R. 1231: Mr. STRICKLAND.
H.R. 1328: Mr. TORRES.
H.R. 1375: Mr. DOOLEY of California.
H.R. 1401: Mr. STEARNS and Mr. HALL of Texas.
H.R. 1441: Mr. SHUSTER and Mr. ROGERS.
H.R. 1450: Mr. MARKEY.
H.R. 1505: Mr. GILLMOR and Mr. MATSUI.
H.R. 1586: Mr. PALLONE and Ms. FURSE.
H.R. 1592: Mr. WELLER.
H.R. 1704: Mr. BONILLA and Mr. ROYCE.
H.R. 1995: Ms. DANNER, Ms. HOOLEY of Oregon, Mr. RANGEL, Mr. COSTELLO, Mr. JACKSON, Mr. THOMPSON, Mr. DICKS, Mr. CRAMER, Mr. BAESLER, Mr. HILLIARD, Mr. STUPAK, Mr. LIPINSKI, Mr. PETERSON of Minnesota, Mr. DICKEY, Mr. SCARBOROUGH, Mr. TRAFICANT, Mr. DAVIS of Florida, Mr. ROEMER, Mr. PRICE of North Carolina, Mr. BACHUS, Mr. PASCRELL, Ms. NORTON, Mr. SCHUMER, Mr. CONYERS, and Mr. TANNER.
H.R. 2009: Mr. SCHUMER, Mr. ENGLISH of Pennsylvania, and Ms. DANNER.
H.R. 2130: Mr. MALONEY of Connecticut, Mr. KLECZKA, and Mr. COYNE.
H.R. 2174: Mr. DEUTSCH, Mr. ETHERIDGE, and Mr. HILLIARD.
H.R. 2488: Mr. BOSWELL.
H.R. 2524: Mr. WYNN.
H.R. 2538: Mr. DIXON and Mr. BURR of North Carolina.
H.R. 2545: Mr. GILCHREST.
H.R. 2639: Ms. KILPATRICK and Mr. DINGELL.
H.R. 2701: Mr. KLINK.
H.R. 2738: Mr. CLYBURN and Mr. THOMPSON.
H.R. 2748: Mr. STEARNS.
H.R. 2754: Mr. ROMERO-BARCELO.
H.R. 2804: Mr. HALL of Texas and Mrs. CLAYTON.
H.R. 2821: Mr. THOMPSON, Mr. WATKINS, and Mr. SERRANO.
H.R. 2888: Mr. SESSIONS, Mr. CUNNINGHAM, and Mr. NORWOOD.
H.R. 2923: Mr. STUPAK.
H.R. 2942: Mr. PASTOR and Mr. HUNTER.
H.R. 2963: Mr. JACKSON and Mr. SNYDER.
H.R. 2990: Mr. SERRANO, Mr. DINGELL, Mr. LEACH, Mrs. MALONEY of New York, Mr. MCKEON, and Mr. JACKSON.
H.R. 3048: Mr. MCHALE.
H.R. 3050: Mr. STARK and Ms. STABENOW.
H.R. 3081: Mr. TORRES, Mr. RUSH, Mr. LUTHER, Ms. PELOSI, Mr. GREENWOOD, Mr. CUMMINGS, Mr. MORAN of Virginia, Mr. JEFFERSON, and Ms. HARMAN.
H.R. 3086: Mr. MENENDEZ.
H.R. 3099: Mr. SERRANO.
H.R. 3125: Mr. BURR of North Carolina.
H.R. 3127: Mr. SALMON, Mr. DOOLEY of California, and Mr. HYDE.
H.R. 3156: Mr. KASICH.
H.R. 3162: Mr. LEWIS of Kentucky.
H.R. 3181: Mr. VENTO and Mr. DEUTSCH.
H.R. 3229: Mr. WELLER, Mr. ENGLISH of Pennsylvania, Mr. FROST, Mr. CALVERT, Mr. BLUNT, and Mr. METCALF.
H.R. 3230: Mr. ENGLISH of Pennsylvania, Mr. BLUNT, and Mr. METCALF.
H.R. 3236: Mr. SKAGGS, Ms. SLAUGHTER, Mr. ENSIGN, Mrs. LOWEY, Mrs. MEEK of Florida, Ms. DELAURO, and Ms. HARMAN.
H.R. 3248: Mr. SMITH of New Jersey.
H.R. 3251: Mr. KENNEDY of Massachusetts, Mr. MCDERMOTT, Mr. OLVER, Ms. DELAURO, Mr. RUSH, Ms. STABENOW, Ms. FURSE, Mr. TORRES, and Mr. HALL of Ohio.
H.R. 3279: Ms. WATERS.
H.R. 3396: Mr. HILLIARD, Mr. TAUZIN, and Mr. KINGSTON.
H.R. 3410: Mr. PAPPAS.
H.R. 3435: Mr. BALDACCI, Mr. JOHN, Mr. UPTON, Mr. ABERCROMBIE, Mr. LEWIS of Kentucky, Mr. THOMPSON, Mr. REDMOND, Ms. FURSE, Mr. DREIER, Mr. PETERSON of Pennsylvania, and Mr. HOUGHTON.
H.R. 3466: Mr. THOMPSON.
H.R. 3470: Mr. BARRETT of Wisconsin.
H.R. 3498: Mr. ADAM SMITH of Washington.
H.R. 3506: Mr. BACHUS, Ms. RIVERS, Mr. DAVIS of Virginia, Ms. KILPATRICK, Mr. MILLER of Florida, Mr. DELAHUNT, Mr. NEAL of Massachusetts, Mr. MASCARA, Mr. FRANK of Massachusetts, and Mr. CANNON.
H.R. 3523: Mr. SKELTON, Mr. GOODLING, Mr. TAUZIN, Mr. ENGEL, Mr. TURNER, Mr. ENSIGN, Mr. WELDON of Pennsylvania, Ms. KAPTUR, Mr. DICKS, Mr. KINGSTON, Mr. TIAHRT, Mr. DICKEY, Mr. MANTON, Mr. MCINTYRE, and Mr. SAM JOHNSON.
H.R. 3539: Mr. HAYWORTH.
H.R. 3567: Mr. PETERSON of Pennsylvania.
H.R. 3570: Mr. BONIOR and Mr. SERRANO.
H.R. 3571: Mr. WAXMAN.
H.R. 3572: Mr. CALVERT, Mr. WISE, and Mr. CRAPO.
H.R. 3605: Mr. BLAGOJEVICH, Mr. MCDERMOTT, Ms. KILPATRICK, Mr. POSHARD, Mr. BARCIA of Michigan, Mr. DEFAZIO, Mr. ADAM SMITH of Washington, Mrs. TAUSCHER, Mr. HEFNER, Mr. JOHNSON of Wisconsin, Mr. PASTOR, and Mrs. MCCARTHY of New York.
H.R. 3622: Ms. MILLENDER-MCDONALD.
H.R. 3633: Mrs. MYRICK and Mr. COBLE.
H.R. 3648: Mr. MCHUGH.
H.R. 3659: Mr. CALVERT, Mr. NETHERCUTT, Mr. GUTKNECHT, Mr. TIAHRT, Mr. HYDE, Mr. PASTOR, Mr. PETERSON of Pennsylvania, Mr. EVERETT, Mr. PEASE, and Ms. DANNER.
H.R. 3660: Ms. SLAUGHTER and Mr. ACKERMAN.
H.R. 3682: Mr. HILL and Mr. SALMON.
H.R. 3688: Mr. LUCAS of Oklahoma.
H.R. 3690: Mr. ROGERS.
H.R. 3710: Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CLAYTON, Mr. JEFFERSON, Mr. THOMPSON, Mr. CLYBURN, Mr. HAMILTON, Mr. ROEMER, Mr. CALLAHAN, and Mr. NEY.
H.R. 3747: Mr. HAYWORTH and Mr. MCKEON.
H.R. 3774: Mr. REDMOND.
H.R. 3795: Mr. WOLF.
H.R. 3798: Mr. WATKINS, Mr. MCGOVERN, Mr. STARK, and Mr. KANJORSKI.
H.R. 3807: Mr. ARCHER, Mr. ARMEY, Mr. BARTLETT of Maryland, Mr. BONILLA, Mr. CAMP, Mr. COBURN, Mr. COMBEST, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DELAY, Mr. DOOLITTLE, Mr. DUNCAN, Mr. GIBBONS, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HOSTETTLER, Mr. HUNTER, Mr. JONES, Mr. LATHAM, Mr. LEWIS of California, Mr. LINDER, Mr. LUCAS of Oklahoma, Mr. MCDADE, Mr. MICA, Mrs. MYRICK, Mrs. NORTHUP, Mr. PACKARD, Mr. PEASE, Mr. PITTS, Mr. POMBO, Ms. PRYCE of Ohio, Mr. RADANOVICH, Mr. REGULA, Mr. RIGGS, Mr. RILEY, Mr. ROGAN, Mr. ROGERS, Mr. ROHRABACHER, Mr. RYUN, Mr. SCARBOROUGH, Mr. SESSIONS, Mr. SOLOMON, Mr. SOUDER, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. THOMAS, Mr. THUNE, Mr. TIAHRT, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, and Mr. WHITFIELD.
H.R. 3830: Mr. FALEOMAVAEGA.
H.R. 3833: Mrs. MORELLA, Mr. SCHUMER, Ms. DEGETTE, and Mr. ENGEL.
H.R. 3835: Mr. TRAFICANT, Mr. SAWYER, and Ms. KAPTUR.
H.R. 3855: Mr. SAWYER, Mr. BACHUS, Mr. NEAL of Massachusetts, Mr. DOOLEY of California, Ms. PRYCE of Ohio, and Mr. BERRY.
H.R. 3879: Mr. BLUNT, Mr. HAYWORTH, Mr. HULSHOF, Mr. RAHALL, Mr. MCINTYRE, and Mrs. CHENOWETH.
H.R. 3882: Mr. HUNTER, Mr. SOLOMON, Mrs. LINDA SMITH of Washington, Mr. TRAFICANT, Mr. RILEY, Mr. HANSEN, and Mr. TAYLOR of Mississippi.
H.R. 3884: Mr. ACKERMAN, Mr. ENGEL, and Mr. MEEKS of New York.
H.R. 3897: Mr. RANGEL and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 3898: Mr. ADERHOLT, Mr. LARGENT, Mr. CANNON, and Mr. MCCRERY.
H.J. Res. 99: Mr. ABERCROMBIE.
H.J. Res. 113: Mr. LAZIO of New York.
H. Con. Res. 47: Ms. CARSON.
H. Con. Res. 203: Mr. BRADY of Pennsylvania, Mr. KUCINICH, Mr. LAMPSON, Mr. DEUTSCH, Mr. MCHALE, Mr. PETERSON of Pennsylvania, Mr. ADERHOLT, Mr. SHUSTER, Mr. GIBBONS, Mr. VENTO, Mr. KING of New York, Mr. ABERCROMBIE, Ms. HOOLEY of Oregon, Mr. FOSSELLA, Mr. CALVERT, Mr. STEARNS, and Mr. STUMP.
H. Con. Res. 214: Mr. SISISKY, Mr. WOLF, and Mr. PICKETT.
H. Con. Res. 249: Mr. KENNEDY of Rhode Island and Mrs. MINK of Hawaii.
H. Con. Res. 267: Mr. BARRETT of Nebraska and Mr. SHERMAN.
H. Res. 37: Mr. LANTOS, Mr. KENNEDY of Massachusetts, Mr. BENTSEN, Mr. STRICKLAND, Mr. DICKS, Mr. MORAN of Kansas, Mr. LATOURETTE, Mr. COSTELLO, Ms. SANCHEZ, Ms. DEGETTE, Mr. PRICE of North Carolina, Mr. POMEROY, Mr. RODRIGUEZ, Mr. SISISKY, Mr. BRADY of Pennsylvania, and Mr. KASICH.
H. Res. 171: Mr. WAMP.
H. Res. 312: Mr. MILLER of California and Mr. MATSUI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 894: Mrs. CLAYTON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

AMENDMENT NO. 18: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. 401. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's

citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered by: Mr. Bass)

AMENDMENT NO. 19: Add at the end the following new title:

TITLE ___—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner

of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered by: Mr. Campbell)

AMENDMENT NO. 20: Add at the end the following new title:

TITLE ___—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable

source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendments Numbered 3 and 4 Offered by: Mr. Obey)

AMENDMENT NO. 21: Add at the end the following new title:

TITLE ___—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

AMENDMENT OFFERED BY: Mr. PETERSON OF PENNSYLVANIA

(To the Amendment Offered by: Mr. Farr of California

AMENDMENT NO. 22. Add at the end the following new title:

TITLE ___—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered by: Mr. Hutchinson)

AMENDMENT NO. 23: Add at the end the following new title:

TITLE ___—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered by: Mr. Peterson of Minnesota)

AMENDMENT NO. 24: Add at the end the following new title:

TITLE ___—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered by: Mr. Shays)

AMENDMENT NO. 25: Add at the end the following new title:

TITLE ___—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner

of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

H.R. 2183

OFFERED BY: MR. PETERSON OF PENNSYLVANIA

(To the Amendment Offered by: Mr. Tierney)

AMENDMENT NO. 26: Add at the end the following new title:

TITLE ____—VOTER ELIGIBILITY CONFIRMATION PROGRAM

SEC. ___01. VOTER ELIGIBILITY PILOT CONFIRMATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security, shall establish a pilot program to test a confirmation system through which they—

(1) respond to inquiries, made by State and local officials (including voting registrars) with responsibility for determining an individual's qualification to vote in a Federal, State, or local election, to verify the citizenship of an individual who has submitted a voter registration application, and

(2) maintain such records of the inquiries made and verifications provided as may be necessary for pilot program evaluation.

In order to make an inquiry through the pilot program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(b) INITIAL RESPONSE.—The pilot program shall provide for a confirmation or a tentative nonconfirmation of an individual's citizenship by the Commissioner of Social Security as soon as practicable after an initial inquiry to the Commissioner.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation as soon as practicable after the date of the tentative nonconfirmation.

(d) DESIGN AND OPERATION OF PILOT PROGRAM.—

(1) IN GENERAL.—The pilot program shall be designed and operated—

(A) to apply in, at a minimum, the States of California, New York, Texas, Florida, and Illinois;

(B) to be used on a voluntary basis, as a supplementary information source, by State and local election officials for the purpose of assessing, through citizenship verification, the eligibility of an individual to vote in Federal, State, or local elections;

(C) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen is—

(i) necessary for determining whether the individual is eligible to vote in an election for Federal, State, or local office; and

(ii) part of a program or activity to protect the integrity of the electoral process that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(D) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(E) to permit inquiries to be made to the pilot program through a toll-free telephone line or other toll-free electronic media;

(F) subject to subparagraph (I), to respond to all inquiries made by authorized persons and to register all times when the pilot program is not responding to inquiries because of a malfunction;

(G) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act;

(H) to have reasonable safeguards against the pilot program's resulting in unlawful discriminatory practices based on national origin or citizenship status, including the selective or unauthorized use of the pilot program.

(2) USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—To the extent practicable, in establishing the confirmation system under this section, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–664).

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the pilot program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to confirm (or not confirm) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the pilot program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth which are provided in an inquiry against information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(g) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c) or in any action by an individual to use the process provided under this subsection upon receipt of notification from an election official under subsection (i).

(h) LIMITATION ON USE OF THE PILOT PROGRAM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under this section.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(3) NO NEW DATA BASES.—Nothing in this section shall be construed to authorize, directly or indirectly, the Attorney General and the Commissioner of Social Security to create any joint computer data base that is not in existence on the date of the enactment of this Act.

(i) ACTIONS BY ELECTION OFFICIALS UNABLE TO CONFIRM CITIZENSHIP.—

(1) IN GENERAL.—If an election official receives a notice of final nonconfirmation under subsection (c) with respect to an individual, the official—

(A) shall notify the individual in writing; and

(B) shall inform the individual in writing of the individual's right to use—

(i) the process provided under subsection (g) for the prompt correction of erroneous information in the pilot program; or

(ii) any other process for establishing eligibility to vote provided under State or Federal law.

(2) REGISTRATION APPLICANTS.—In the case of an individual who is an applicant for voter registration, and who receives a notice from an official under paragraph (1), the official may (subject to, and in a manner consistent with, State law) reject the application (subject to the right to reapply), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from—

(i) a source other than the pilot program established under this section; or

(ii) such pilot program, pursuant to a new inquiry to the pilot program made by the official upon receipt of information (from the individual or through any other reliable

source) that erroneous or incomplete material information previously in the pilot program has been updated, supplemented, or corrected.

(3) INELIGIBLE VOTER REMOVAL PROGRAMS.—In the case of an individual who is registered to vote, and who receives a notice from an official under paragraph (1) in connection with a program to remove the names of ineligible voters from an official list of eligible voters, the official may (subject to, and in a manner consistent with, State law) remove the name of the individual from the list (subject to the right to submit another voter registration application), but only if the following conditions have been satisfied:

(A) The 30-day period beginning on the date the notice was mailed or otherwise provided to the individual has elapsed.

(B) During such 30-day period, the official did not receive adequate confirmation of the citizenship of the individual from a source described in clause (i) or (ii) of paragraph (2)(B).

(j) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—Any State (or political subdivision thereof) may, for the purpose of making inquiries under the pilot program in the administration of any voter registration law within its jurisdiction, use the social security account numbers issued by the Commissioner of Social Security, and may, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for such law, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(k) TERMINATION AND REPORT.—The pilot program shall terminate September 30, 2001. The Attorney General and the Commissioner of Social Security shall each submit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and to the Committee on the Judiciary and the Committee on Finance of the Senate reports on the pilot program not later than December 31, 2001. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship in jurisdictions covered by the pilot program;

(2) assess the appropriate staffing and funding levels which would be required for full, permanent, and nationwide implementation of the pilot program, including the estimated total cost for national implementation per individual record;

(3) include an assessment by the Commissioner of Social Security of the advisability and ramifications of disclosure of social security account numbers to the extent provided for under the pilot program and upon full, permanent, and nationwide implementation of the pilot program;

(4) assess the degree to which the records maintained by the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service are able to be used to reliably determine the citizenship of individuals who have submitted voter registration applications;

(5) assess the effectiveness of the pilot program's safeguards against unlawful discriminatory practices;

(6) include recommendations on whether or not the pilot program should be continued or modified; and

(7) include such other information as the Attorney General or the Commissioner of Social Security may determine to be relevant.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, for the Immigration and Naturalization Service, for fiscal years beginning on or after October 1, 1998, such sums as are necessary to carry out the provisions of this title.

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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

Almighty God, we commit ourselves to cherish each unfolding moment of this day You have given us, to enjoy You and the precious hours filled with opportunities to serve You.

Thank You for Your presence. Guide our thinking, so that we may know Your will. Abide in our hearts, so that we may be filled with love and sensitivity for the people around us; bless our conversations, so that we may glorify You; linger on our lips, so that we may speak truth in love; and rest on our countenances, so that no grimness may hide the grace You have given us so lavishly.

Grant that, all through this day, everyone with whom we work and everyone we meet may see the reflection of Your joy in us. Make us a blessing for those laden with burdens, a lift for those bogged down with worries, and a source of hope for those who don't know where to turn. Lord, help us to care as You have cared for us. Through our Lord and Saviour, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator MCCAIN, is recognized.

Mr. MCCAIN. Mr. President, thank you.

THE PRESIDENT PRO TEMPORE

Mr. MCCAIN. Mr. President, may I say the President looks very well this morning, and we are certainly glad that he is with us to open the Senate, as he is on every day that the Senate is in session.

SCHEDULE

Mr. MCCAIN. Mr. President, for the information of all Senators, this morning the Senate will resume consideration of the Gregg-Leahy amendment pending to the tobacco legislation. It is the chairman's intention to move to table the Gregg-Leahy amendment at approximately 11 a.m.

I want to point out that that vote may be a little later, because I had a large number of Senators who have asked to speak before that vote. So that may be delayed past 11 a.m. All Senators will be notified when that vote occurs.

Following that vote, it is believed that the Democrats will be prepared to offer an amendment under a short time agreement. Following disposition of the Democrat amendment, it is hoped that the Senate could then consider the farmers' protection issue.

Therefore, the first vote of today's session is expected sometime after 11 a.m., and Members should expect rollcall votes throughout today's session in order to make good progress on this important tobacco legislation.

Also at the end of this week, it is hoped that the Senate will be able to complete action on the ISTEA conference report, if available, and the Iran sanctions bill under a previous consent agreement.

Once again, the cooperation of all Senators will be necessary for the Senate to complete its work prior to the Memorial Day recess.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, leadership time is now reserved.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to S. 1415, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gregg/Leahy amendment No. 2433 (to amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers.

Gregg/Leahy amendment No. 2434 (to amendment No. 2420), in the nature of a substitute.

Mr. MCCAIN. Mr. President, I note the presence of the Senator from Massachusetts who wishes to speak. I will yield the floor in just a minute, because I don't want to have him delayed, because I know he has a schedule. Of course, I note the presence on the floor of the sponsor of the pending amendment, Senator GREGG of New Hampshire.

Mr. President, I thought yesterday we made good progress. We have addressed the issue of attorneys' fees, although I don't believe that will be the final consideration of that issue since there are some very strongly held views on it. But we did have good and vigorous debate on that issue.

Yesterday, also, I think the parameters of this legislation were determined to a significant degree when the Ashcroft amendment was tabled. Then the majority of the Senate decided that we would not remove these fees that will be imposed on the tobacco industry as part of this legislation and settlement.

On the other side, when the Kennedy amendment was rejected, also the majority of the Senate declared its position at $1.10, which was approximately where the price of a pack of cigarettes would be.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Today, we will address the Gregg amendment, which will have to do with another important part of the bill. And that is the cap on the amount of payments that the tobacco companies would make on an annual basis, which I intend to discuss at more length, because I am not sure that this Senate understands, one, the exact meaning of that and the implications of removing it, because, very frankly, the implications of removing it will mean much higher costs to the taxpayers and to the consumers at the end of the day.

Finally, after that issue is resolved, we intend to take up one of the other major portions of this proposed legislation. And that is the agriculture portions of the bill, and, of course, there are extremely strongly held views on that particular issue.

Mr. President, I believe at the end of today we would have addressed—the Senate—admittedly from time to time in somewhat prolonged fashion, the major issues pertaining to this legislation.

I am pleased with the progress we have made so far. Apparently, we may not be able to complete action on this legislation before going into recess. But hopefully the realization will set in that we have addressed by the end of the day the major portions of this bill. And we could then conclude consideration of this legislation upon return.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, did my friend and colleague want to make a statement? I know the floor manager is on his feet.

Mr. KERRY. No. I thank our colleague. I will reserve my comments.

AMENDMENT NO. 2433

Mr. KENNEDY. Mr. President, the Gregg-Leahy amendment raises very fundamental questions:

Why would we consider giving a group of the worst corporate villains in America special protection?

Why would we want to make it more difficult for those who have been injured by the tobacco industry's wrongdoing to collect damages?

Why should Congress impose a liability cap which will have the effect of redirecting dollars away from smoking victims and into industry coffers?

I have heard no convincing answers to these questions from the bill's proponents.

More than one year ago, when news of the settlement negotiations between the state attorneys general and the tobacco industry first became public, I expressed my opposition to restricting the liability of tobacco companies. On April 25, 1997, I came to this floor and spoke out against giving the tobacco industry any special protection:

> It would be unconscionable to deny people poisoned by tobacco their day in court. Each year, millions of Americans learn that they have a disease caused by smoking. In too many cases, it is beyond our power to restore their health. We must never permit the tobacco industry to extinguish their right to justice as well.

We have come a long way in the last year. The deal with the industry that was announced on June 20th would have given tobacco companies de facto immunity from suit. In fact, its provisions were designed by the industry to erect enormous barriers in the path of smoking victims seeking compensation. It would have banned all class action suits, which are often the only effective way individuals can litigate against corporate giants. In fact, it prohibited any aggregation of claims. It would have also banned all punitive damages. If ever we have seen an industry against which punitive damages are warranted, it is the tobacco industry. It would have prohibited all litigation by health insurers, such as Blue Cross and Employee Health and Welfare Funds, which incur enormous costs treating tobacco induced illnesses. It would have prevented the introduction of crucial evidence by tobacco victims suing the industry. It would have given absolute immunity to the parent companies of cigarette manufacturers even though those companies are where most of the profits go and the real decisions are made. It would have extinguished all future governmental suits against the industry. And, it would have imposed an annual ceiling on the liability of the tobacco industry. It was truly a draconian litany.

Fortunately, these liability restrictions were so extreme that they produced a great public outcry. Public health experts and victims' rights advocates expressed their outrage at this enormous injustice.

During the past year, there has truly been a national awakening on this issue. The American people focused on what the tobacco industry has done as never before. The dramatic revelations of corporate misconduct which have emerged from the industry's own files have truly shocked the national conscience. The harshest indictments of the tobacco companies are written in their won words, long kept secret, but now revealed for all to hear. From a 1981 Phillip Morris strategic planning document:

> Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . Because of our high share of the market among the youngest smokers, Phillip Morris will suffer more than the other companies from the decline in the number of teenage smokers

From an R.J. Reynolds Tobacco Company document entitled ''Planning Assumptions for the Period 1978 to 1987''.

> Evidence is now available to indicate that the 14 to 18 year old group is an increasing segment of the smoking population. RJR–T must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.

Company records also detail elaborate efforts to chemically treat the nicotine in cigarettes to make it even more addictive than it naturally would be. All the while, these same companies were telling the American people that smoking is just a matter of free choice.

All of the special industry protections contained in the settlement were included in the Commerce Committee bill when it was first introduced. To the Committee's credit, in the final days before the markup, the prohibitions on class actions and punitive damages were removed. In the negotiations which produced the Manager's Amendment, the provisions granting immunity to corporate parents and affiliates was finally deleted and many of the evidentiary restrictions were removed. It is now time for the Senate to strip this legislation of the remaining vestiges of these special protections for Big Tobacco. While the remaining special protections may be less extreme, the principle is the same. This industry should not in any way be shielded from the long overdue rendezvous with accountability which awaits it in courthouses across America.

Title XIV of the Manager's Amendment provides the industry with an $8 billion per year liability cap limiting the companies financial exposure for both past and future misconduct. I object to any special protection for the industry. I believe the tobacco industry is not entitled to any liability cap. But, I especially object to this particular cap which applies to liability for future as well as past wrongdoing. One of the most important purposes of the civil law is to deter misconduct.

Capping liability for future wrongdoing reduces that deterrent and encourages tobacco companies to continue their misconduct. This industry of all industries, based upon its unparalleled record of corporate irresponsibility, should be subject to tougher standards, certainly not more lenient standards, than other companies. Yet, a more lenient standard is exactly what Title XIV will provide for the tobacco industry.

Consider the significance of the protection which a liability cap will give the tobacco companies. It provides them with an absolute ceiling on the amount of money they will have to spend each year to compensate their victims. This industry which conspired for decades to conceal the enormous health damages inherent in smoking. This industry which manipulated the nicotine in its products to make them even more addictive. This industry which targeted generations of our children for a lifetime of addiction and early death. There can be no justification for sheltering this industry from the legitimate claims of those who have been injured by its deadly product.

To the extent that the proposed liability ceiling is ever reached, it will have the effect of transferring dollars which rightfully belong to victims into the industry's corporate coffers. We are giving preference to CEOs and shareholders above the victims of tobacco

induced illness. That cannot be justified. It is ironic to hear some proponents argue that the ceiling is so high it will never be reached. If that is true, it is unnecessary. If it is reached, it will inflict a second injury on those already injured by this industry's gross misconduct.

There is another serious problem created by the current Title XIV. The language it uses to settle the state cases is far too broad. It does for more than resolve current claims arising from state expenditures for the treatment of citizens suffering from tobacco induced illness. As written, it could prohibit state and local government from bringing future actions to enforce public health standards and consumer protection laws. It could prevent state and local government from effectively policing future tobacco industry conduct. If this provision is not revised, it will tie the hands of state and local government, and allow the tobacco industry to escape effective regulation.

The Gregg-Leahy amendment will remove all of these special limits on industry liability from pending legislation. Congress does not need the consent of the tobacco industry to legislate meaningful protection for America's children. Our sole concern must be what the public health requires, not what the industry desires. The deal with the industry which Title XIV contemplates would set an appalling precedent. It will undermine the moral authority of the federal government as protector of the public health. Today the Senate should declare that it will not allow the tobacco industry to escape its long overdue rendezvous with accountability.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will speak at greater length at a later time, but let me just say with respect to two of the concerns that were expressed by my colleague from Massachusetts, the Senator expressed the notion that the managers' amendment has left an ambiguity with respect to preserving addiction claims and also preserving the ability of States to bring future enforcement actions against the tobacco companies.

I would assure the Senator that it is neither the intention of the Senator from Arizona nor myself that that be the case. It is our understanding that the language in the managers' amendment is clear with respect to the fact that we do preserve addiction claims, and we also preserve the right of the States to bring future enforcement actions. If there is any ambiguity about that, I know the Senator from Arizona and I would be only too happy to accept an amendment of clarification to make it clear that neither of those are in fact the intent. So I think that that is an issue that can be dealt with exceedingly easily. The larger issue, sort of the question of whether there is a shield or not, is something that I will address a little bit later.

At this moment 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. KERRY. 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. KERRY. Mr. President, let me say, for the benefit of colleagues who were anxious to speak on this issue, that this is a good time. There is nobody here at this time seeking recognition, so we invite Senators who were particularly anxious to try to address this question to come to the floor and do so.

I want to try to clarify, if I can, what this amendment does and what it doesn't do, because I think there is a misunderstanding here. I think it is absolutely vital that when the Senate votes on this, we vote with clarity as to what the impact will be.

Some people have come to the floor suggesting that this is a shield for tobacco companies and that it is an unwarranted shield for tobacco companies. I think the Senator from Arizona and I would stress, as strongly as either of us knows how, that there is no shield here for tobacco companies. Tobacco companies will be liable. They will be liable under any circumstances under this bill. There is only one circumstance in this bill by which they might be limited in the amount of a 1-year payment. That is not a limit on liability. That is a limit on how much of their liability they would pay in any 1 year. But if the liability were more than that payment for 1 year, the payment carries over into the next year. So, in effect, there is no limit on liability. There is simply a rollover process by which a fixed amount, on an annual basis, is arrived at.

Why does that component of the bill exist?

Let me emphasize, there are two parts of this bill. If the opponents of the so-called cap, of an annual cap, if they were to prevail here today, what they would succeed in doing is stripping this bill of the one invitation that it offers to tobacco companies to come into the tent, if you will, and be part of the solution of how we are going to reduce smoking among teenagers. If you strip out that cap, what will happen is we will return to the status quo. We stay in the position where tobacco companies are merely being sued. We get no cooperation with respect to any of the advertising restrictions, any of the document depository, any of the health programs that will help our kids reduce smoking. We get none of that cooperation, and we guarantee that there will be a challenge on the look-back provisions. We guarantee it.

If people think stripping that out creates a stronger bill, to leave us in a situation that we have been in for all the last years—which is simply endless lawsuits that produce no cooperative effort and ultimately result, at least to this date, in no winnings in court—I would have a hard time understanding how that is a better situation. The fact is that all of the concerns that people expressed about immunity have been addressed between the time of the tobacco company settlements and the time the Commerce Committee brought a bill out of committee.

Let me clear up that understanding as strongly as I can. When the settlement was agreed to, back in June of 1997, it contained sweeping immunities for the tobacco companies. Those are gone. There is no longer any elimination of class actions. Tobacco companies will continue to be subject to class actions. There is no longer an elimination of punitive damages. Tobacco companies will be subject to punitive damages. There are no longer any restrictions on the aggregation of claims, which means different individuals could come together, one lawyer representing them—you can aggregate the claims and come in with a larger claim. That is now permitted. And there are no restrictions on third party claims. They are now permitted.

So, as reported by the Commerce Committee, the bill contained certain other immunities. Those are gone, too. Parent companies and affiliates are no longer shielded from liability. Advertisers, attorneys, and PR firms are no longer shielded from liability. Addiction and dependency claims against the tobacco industry are preserved, including claims where addiction is the only injury alleged and claims where addiction is the basis of a broader claim relating to the manifestation of a tobacco-related disease.

There are no longer any restrictions on the type of evidence that is discoverable or admissible, and all limits on the industry's obligations to produce documents have been removed. The ability of plaintiffs to maintain actions in State courts and grounded in State law is preserved. And, finally, there is no longer any exemption for tobacco companies from the Nation's antitrust laws.

All of that is gone, Mr. President—gone. They have been totally exposed. And that is one of the reasons, I might add—you know, when you look at the price of $1.10, and you look at the settlement in Minnesota, if you extrapolate the settlement in Minnesota and the settlement in Mississippi, if you add up the potential of all the settlements in the country, you come out with an amount of money that is exactly or almost exactly where we are with respect to the $1.10. The fact is the tobacco companies are settling cases now at a rate that basically accepts the $1.10. They are not fighting about price because they know ultimately that is a price they can bear. What they are fighting about is the liability. That is the reason these millions of dollars are really being spent.

That is the real bone of contention here.

The fact is, they are offered two choices in this bill. They don't have to participate, in which case the situation the Senator from New Hampshire wants is exactly what will exist. They will be subject to suits, endless suits. That can happen. But, if they choose to try to come into the tent, as we have said —and we have no way to force them into the tent. There is no way we can do that. So my fellow Senators have a choice. You can either leave them out there subject to lawsuits, subject to all of this litigation without any cooperation. Or you can decide maybe there is something sufficiently good that we, the Government, can get in exchange for their participation, for which we are willing to tell them only one thing: You are not going to pay more than $8 billion in any 1 year. It doesn't let them off the hook. It doesn't say they don't have to pay. It doesn't say they are not liable. It doesn't give them immunity. It simply restricts the amount of money in any 1 year.

What is it worth getting for that restriction for not having any more money in 1 year? We settle the State actions and we give them that $8 billion cap. That cap is importantly indexed to inflation, so there is not some sort of reduction in the purchasing power or in the value of that. It will rise with inflation and it will increase according to—at least 3 percent we have had each year and perhaps more, if the CPI is higher than 3 percent.

I think it is important to make it clear—there is no concession in this bill unless the tobacco companies decide to be involved. And that is a critical component. The tobacco companies would have to come in and sign a protocol, sign a consent decree, and they would agree to abide by the provision of the payments. Most important, they would agree to abide by the look-back assessments.

I would like to just run through the look-back assessments, because I heard the Senator from Utah yesterday on the floor—the Senator from Utah was pointing out to everybody how unconstitutional are the look-back assessments. The look-back assessments are a dramatic way of engaging the tobacco industry into compliance with the things we want them to do.

The tobacco industry accepted, they are the ones who helped come up with the look-back agreement. The look-back agreement was in the original settlement with the attorneys general. So they have accepted it once already. They have shown their willingness to come in and live by the standard of the look-back agreement.

What the look-back agreement says is that they must meet a target for the reduction of underage tobacco use. These targets are the same as those they agreed to in the June 20 agreement.

The targets are as follows: In 3 years, there must be a 15-percent reduction. In 5 years, there must be a 30-percent reduction. That is for cigarettes. For smokeless tobacco, it is 25 percent. There is a 50 percent reduction over 7 years and 35 percent for smokeless.

Over 10 years, the tobacco companies are agreeing that they must reduce teenage smoking by 60 percent. That is what this bill is about. This bill is an effort to reduce teenage smoking, and here we are trying to get the tobacco industry to specifically accept responsibility to be part of the process of doing that. You can't order them to do it. They are certainly not going to do it if all we do is leave them out there subject to endless lawsuits.

There ought to be some incentive that says to those companies, ''Come on in and be part of the solution,'' and the look-back provisions are that. But the look-back provisions also say that if the industry doesn't meet the target, they will pay $80 million for each percentage point missed between 1 and 5. They will pay $160 million for each percentage point missed between 6 and 10 percent, and $240 million for each percentage point missed above 10 percent. That is not a bad penalty. That is not a bad assessment. That is an assessment based on a target that they agree to meet, and if they don't meet the target, they pay a regulatory fee accordingly.

Mr. President, you can't get them to do that unless they agree. If you don't want them to challenge it and to tie us up for years in a court challenge that would not do what we want to do to reduce smoking, then, Mr. President, you have to find some way to bring them in.

I say to all of my colleagues, yesterday on the floor of the U.S. Senate, there was a lot of hue and cry about how kids are going to lose out per 10 cents that we didn't raise the price, and if we had raised the price by 40 cents, we were going to save another 240,000 lives and people were deeply concerned about that and are deeply concerned about that.

Those people who were concerned about that should not come in and vote to leave the tobacco companies in a position where all they are going to do is litigate lawsuits over the next 10 or 15 years, because during those intervening years, those numbers of kids are the kids who are going to be the victims. It is much more intelligent, it seems to me, to get the tobacco companies to be part of the solution in a way that reduces the level of smoking so those kids are, in fact, saved. I think that is a critical choice here.

What we do in this bill is ask the tobacco companies to come in and do things that we have absolutely no right to get them to do without their cooperation. Let me be specific.

A participating company, if they consented, would come in and make a significant up-front payment. They would abide by far broader advertising restrictions than those that were contained in the 1997 settlement. They would be required to create a document depository, where all those people who are going to sue in the future would have access to the documents that have come out of all of the tobacco litigation or out of their existing files. And they would agree—and this is the most important thing, Mr. President—they would agree not to challenge the provisions in the bill. They would agree to abide by these provisions, notwithstanding any future court decision on their constitutionality.

I ask my colleagues to, again, measure that. If the tobacco companies sign an agreement not to sue in the future, not to challenge any of the advertising restrictions that we can't achieve unless they agree, that is an enormous step forward.

Those advertising restrictions are as follows: There would be a complete ban on human images, on animal images and cartoon characters. There would be a ban on outdoor advertising, including stadia and mass transit. There would be a ban on advertising over the Internet. And there would be a ban on payments to glamorize tobacco use in media when such use would be appealing to minors.

There would be a ban on payments for tobacco products placement in movies, TV programs and video games, and there would be severe restrictions on point of sale advertising of tobacco products.

All of those things—all of those things—none of which could be achieved without the consent of the tobacco companies, we would gain as a result of just one thing: allowing them to know the level of their exposure and liability on an annual basis. It seems to me that is an enormous gain for the children, it is a gain for us putting together a responsible approach to reduction of smoking, and it is certainly a gain for the Congress, which would then have constructed a piece of legislation that had a chance of passing.

It seems to me what we have here is a fundamental choice: If we want to put together a piece of legislation that can pass or whether we are going to come out here and put ourselves in the position of simply bashing tobacco because that is the feel-good position.

I might add that in addition to the advertising restrictions, they would also abide by the look-back provisions. The look-back provisions will almost certainly be challenged. They won't be challenged, and even if they were challenged by someone else yet found unconstitutional, if the tobacco companies come in and sign a consent decree and a protocol, they must abide by that. If the tobacco companies at any time in the future were to violate that protocol, violate any component of this act, they would lose the cap on the annual liability payment. They would suffer the full exposure, just as they would if they don't participate.

The final comment I make to my colleagues is very simple. This is a clear, clear choice. Under the managers'

amendment, no tobacco company gets any liability restriction, any cap, any restraint whatsoever unless they decide to give up their rights on the first amendment, unless they give up their rights to challenge, unless they agree to abide by every component of the act.

We have a fundamental choice here, whether we are going to be reasonable in the approach to try to bring them into the tent, or whether we are going to try to abide by something I think most people would feel would be destructive to this legislation as a whole.

I reserve the remainder of my time. I know others want to speak at this time.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I note the presence of the Senator from Washington, as well as the Senator from Oklahoma, who have very strong and important views—especially the Senator from Oklahoma has very strong views on this issue. I will not, then, make my remarks in order that they may be heard. I, again, encourage other Senators who would like to speak on this amendment and the bill to come over. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, perhaps a brief review of history as to how and why we find ourselves in the position we are in in this debate is an appropriate point at which to begin.

Over the years, the Congress has delicately paced around the outer edges of the controversy over tobacco, encouraging certain voluntary limitations on advertising, particularly by television, requiring certain warnings to be included on packages of cigarettes and on advertising, but never getting to the heart of the issue of the desirability or the lack of a desirability of tobacco.

Those limitations can be looked at as either a glass partly full or one largely empty. It is clear the major tobacco companies have attempted to remain profitable by creating, through advertising and peer pressure and in any other method that they could, a constantly increasing supply of new smokers, almost all of whom have begun smoking with the conscious knowledge of its adverse impact on their life expectancy and on their health, although when they began young this was not something that was at the forefront of the thoughts of youth.

Nevertheless, in the United States of America, over the course of the last 20 or 30 years, we have seen a dramatic reduction in the number of men and women who smoke. We, as Americans, probably smoke less than almost any other country in the world.

Various individuals and groups have sued tobacco companies as a result of the adverse impacts of smoking on health. Almost without exception, those individuals have lost those in connection with that litigation.

All of this had us in a situation that was almost stable until a group of State attorneys general and private lawyers came along with a new theory, that damage was caused not just to individual smokers but to the treasuries of our States and, by extension, to our own Treasury, through Medicaid primarily, through Medicare, and through the expenses of taking care of tobacco-related health problems, that these damages totaled in the billions of dollars. And, as a consequence, most of the States of the United States brought actions against tobacco companies to recover those losses to their States.

Some, as you know, Mr. President, acting independently, have already won that litigation by settlement or otherwise. The bulk of them, almost a year ago, reached an agreement with the tobacco companies for what is almost certainly the most massive judgment or change in practices that has ever taken place in this country—close to $400 billion in payments, dramatic and voluntary restrictions not only on advertising but on various other forms of promotion, a set of goals for lessened teen smoking, and a myriad of other ideas.

A part of that settlement is involved in the amendment before us right now, because that settlement purported to protect the tobacco companies against some forms of litigation, although not all forms of litigation. Those protections have been abandoned or rejected by this bill in return for certain other, less significant limitations on the annual liability of tobacco companies to individual litigation.

But, Mr. President, the centerpiece of the agreement with the State attorneys general, without whose work we clearly would not be debating this issue here today any more than we have for the last 10 or 20 years, the centerpiece of that agreement was its voluntary nature. As the eloquent Senator from Massachusetts, who is managing this bill on the other side of the aisle, pointed out, advertising restrictions, upfront payments, document collections, and probably the look-back provisions, are all provisions of that agreement that cannot constitutionally be imposed on the tobacco companies by law.

As a consequence, we are faced with a delicious challenge. We can make all the heroic antitobacco statements and speeches that we wish, we can pile on to a greater extent than even the most radical bills that have been introduced into this body, but we cannot force tobacco companies, as long as they are engaged in a legal business—so far, we do not have a bill that would absolutely prohibit the use of tobacco—we can pass whatever legislation we wish, but we cannot force them to abandon their first amendment rights; we cannot violate the Constitution of the United States.

So in the ultimate analysis, we are either going to pass a bill that, however reluctantly, with however much grumbling, the basic tobacco-product manufacturers will accept and follow, or we are simply going to create another bonanza for lawyers in challenging some of the basic provisions of this legislation, in challenges that, by and large, are almost certain to be successful. We may have voted ''antitobacco,'' but we will not have succeeded in a truly antitobacco result.

At this point, the tobacco companies have rejected the acceptance of the so-called McCain bill. Perhaps more narrowly, they have rejected the McCain bill as it was reported from the Commerce Committee. Many of the changes that have been made in the bill that is before us are designed, it might well be, as a result of gaining their acquiescence. This amendment, if it is passed, will clearly and necessarily result in their rejection of the entire package.

Personally, Mr. President, I believe what we ought to do is in effect to ratify, with some toughening, the agreement that the attorneys general of the various States made after long and careful negotiation and litigation. And we will have the opportunity to do that, or come as close as we can to doing that, when we deal with the amendment that will be proposed by my colleague from Utah, Senator HATCH.

But this bill, the McCain bill in its present form, is, in my opinion, a responsible approach toward this problem. I believe that we must deal with the agricultural elements of it, the payments to tobacco farmers, payments that I think are infinitely too high, with the total preservation of the present tobacco program that is included in the Ford provisions, but we will be dealing with that next.

I believe a significant portion of the money that the Federal Treasury is going to get from this ought to go to tax relief for the American people rather than into other Government-run programs.

But these are elements of this bill that we will debate at some point in the future. They are not elements that will result in the rejection of the bill by those at whom it is aimed on the grounds of the Constitution. This amendment is. Personally, as I say, I would prefer the provisions on litigation that are contained in the attorneys general bill. It may be that at some point or other we will move back in that direction.

I am convinced, however, that the amendment that is before us now will destroy any chance of our passing successful antitobacco legislation. Legislation that balances the constitutional rights of those organizations with which we disagree must significantly increase the cost of a pack of cigarettes but not beyond the point where we create a huge black market of contraband cigarettes, a point that I believe would have been passed, exceeded, by the Kennedy amendment yesterday, and a package that can result in something ultimately acceptable to the

American people, to the courts, to those who manufacture cigarettes, with the net result that we will reduce, though we will never eliminate, cigarette smoking.

I believe that the Senator from Arizona, Senator MCCAIN, who did not seek but was given this assignment, has carried it on in a highly credible fashion with a far greater degree of success than I would have predicted when he started. I think he deserves the thanks, the gratitude of all Members of this body, and to a large extent, at least, our support. I am convinced that he deserves our support on this amendment because this amendment will destroy any chance of being truly successful in getting antitobacco legislation through the Congress, and through the President's signature, in a way that will meet the goals that all of us share.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to make fairly lengthy remarks dealing with the contents of the bill. First, let me just state my respect and admiration for Chairman MCCAIN. He is a very good friend of mine in the Senate. One of the things we have a pleasure of doing in the Senate—we are not a very big body—so we get a chance to know each other sometimes pretty well. I have had the pleasure of working and knowing Senator MCCAIN since he came to the Senate. He is a very good friend of mine. He will still be a good friend of mine.

I don't like his bill. I don't like the procedure by which the bill is being considered, and I was involved in the procedure. Senator LOTT asked me to head up the task force to try to put this bill together. Senator MCCAIN, and the Commerce Committee, had a lot of jurisdiction over the bill, probably more than any other committee. Also, he had to deal with the issue of whether or not we are going to have a limitation on liability for tobacco companies.

Probably the most important issue is whether the attorneys general package will either pass or not pass, it is very pertinent to the amendment that the Senator from New Hampshire has pending before the Senate today. Are we going to give a limitation on liability to tobacco companies? We don't do it for other companies, with very, very few exceptions. I think we did it for the airline industry for a small, targeted area, but, by and large, we don't do this for any industry in America. We don't do it for pharmaceuticals. We don't do it for people who make heart valves, and so on. A liability limitation was in the attorneys general's package that they dumped on Congress, that they signed off with the administration. The administration agreed with that package, the so-called $368 billion 25-year package. That was handed to Congress and they said, ''Here, go pass it.''

I told some of my colleagues from the outset I don't think we will pass legislation—nor do I think we should—that will put a total limitation on class action lawsuits. If you are using in tobacco, you can't have a class action lawsuit against tobacco companies? That is what the attorneys general's package was going to do. In exchange for that, tobacco companies were going to pay about $15 billion a year. That was the so-called deal.

They didn't consult very many people in Congress, and I thought at the time they are going to have a hard time passing that restriction on liability. If they don't have that, they don't have a deal. Frankly, as this process evolved and the Commerce Committee marked up the bill, they struck some of the liability protections on exemption from class action suits, and instead came up with a cap—which is kind of a back end way of trying to do somewhat the same thing. The tobacco companies said, wait a minute, you have increased the price, you have increased the penalties, you have increased everything, and you gave us very little legal protection—this cap. Anyway, the tobacco companies said that is not good enough, there is no deal, we are not going to abide by it.

The only way this could conceivably be in the Commerce Committee instead of the Finance Committee is we say there will be payments of fees in lieu of protection for liability. But it didn't work out that way. So then we had a referral to the Finance Committee. The Finance Committee struck out this fee structure, which I think is a disaster. I see my friend and colleague from Nebraska here is also on the Finance Committee. I will go through, and it will take some time, but I will go through how the tax is computed or the fees are computed in this bill, and just say that it won't work very well.

I also want to say I concur with the objectives of trying to reduce teen smoking. I don't want teenagers to smoke. I have four kids. One out of my four smokes, and he happens to be 28 years old. He started when he was in high school. I really wish that he didn't smoke. I grew up in a family—both my parents and all my brothers and sisters—all of them smoked. My mother has had lung cancer and emphysema, very critical. She still is a survivor, but it is a very serious problem. A couple of my brothers and sisters had a hard time quitting. They did quit. They were able to do it. One in my family didn't have that hard of a time of quitting. I am trying to get my son to quit and I have not been successful. I wish that he would. I really wish that he would.

When you look at the use of tobacco products, you can see that it is pretty significant. This chart shows anybody who has ever used cigarettes in their lifetime, kind of an unusual statistic. I guess I would fall into it because I know I smoked one or two cigarettes when I was in junior high—probably never a full pack. But I guess, if somebody said, did you ever smoke a cigarette, I would have to say, yes, sometime in the 8th grade. So I would be in the 70 percent category—you might notice from this chart that usage went down a little bit in the last few years. Frankly, under the Clinton administration it started going up.

Marijuana use has also gone up—and I am more concerned about drugs than I am smoking. I will make that evident in a moment. But marijuana use, which was up to 60 percent and has fallen down to about 33 percent, fell almost every year through the 1980s until, frankly, President Clinton was elected. Then it has gone up and it has gone up in a skyrocketing fashion. As a matter of fact, I will insert in the RECORD this chart. I tell my friend and colleague from Nebraska that marijuana use in 1992 among 12th graders was 11.9 percent. Last year, it was 23.78 percent —100 percent increase of marijuana use among high school seniors. That is a staggering statistic.

This is marijuana use by people categorized as ''frequent users'' who have used it in the last 30 days. You can see on the chart that this has jumped up. You also see tobacco use has gone up. Cigarette use has gone up. In 1992, cigarette consumption among seniors in high schools was 27.8 percent. In 1997, it was 36.5 percent, an increase of about a third. That is a big increase. You could go all the way back to the 1960s as to who uses cigarettes on a frequent basis or in the last 30 days, and it was very constant for decades, until frankly, the Clinton administration. And during these 5 or 6 years, it has gone up a third, the biggest increase that we have seen.

You might also note, and this is more troubling to me, that marijuana use had gone down for frequent users, down to only about 11 or 12 percent in the early 1990s. And now it is more than double and is up to about 24 percent. Now, that bothers me. And I cannot help but think a lot of people, when they are just going after tobacco and how terrible it is, are fairly silent about drug use, drug use that is habitual, drug use that is illegal, drug use that is deadly, drug use that leads to lots of other crimes, lots of other problems.

Why only the attention on cigarettes? Why only the attention on cigarettes? We are going to have some amendments which will have significant attention on drugs. I had a town meeting during the Easter break in Oklahoma—I had several—but I had one in Shawnee, OK, a middle-class town. This town meeting happened to have a lot of high school students, a lot. I told them we were debating the cigarette tax issue and I just asked how many smoked, and hardly any hands went up.

I said, ''Well, let me ask you a question. Congress is contemplating raising tobacco prices by $1.10, maybe $1.50. Would that make any difference for those of you that raised your hands?'' The answer was, ''No, we don't smoke that much.'' Maybe they would smoke

on a weekend or at a party. They said it would make no difference. That is an informal survey; it is not scientific. But some claim that scientists say if we raise this tax, we are going to reduce teen smoking. I am not sure that is the case. I think when you ask the question if somebody smoked in the last 30 days, that means one cigarette or two cigarettes. I am not sure you are going to have an appreciable reduction because you raise prices a dollar. Maybe there would be some. Maybe it would be a component in reducing teen smoking, but some people are acting like it is the whole battle. I disagree with that. I don't think it would work.

As a matter of fact, I am kind of amused because now we hear everybody say our objective is that if we raise these prices, these taxes, spend all this money and run this massive campaign, we will be successful and we can reduce teen smoking by 60 percent. If you are against this, you are for tobacco companies and you are against kids. I reject that outright. I don't like smoking. I don't like teen smoking, especially. I don't like to see kids smoke. But that doesn't mean you have to sign onto a program that spends hundreds of billions of dollars.

I looked at a statement of Secretary Shalala when she announced new FDA regulations with David Kessler in August of 1995. They came up with a lot of new regulations. I don't agree with a lot of them. I think they are overly intrusive. But whether I agree with them or not, they stated in those regulations they thought they could reduce children and adolescent smoking by 50 percent within 7 years. Wait a minute. We are talking about spending hundreds of billions of dollars in addition to these FDA regulations to it to 60 percent? So these massive price and tax increases might decrease smoking another 10 percent in addition to what they are already doing in FDA? I am not so sure.

That tells me that people are sometimes pretty loose with statistics. Maybe these surveys don't mean as much as some people think. Maybe this question of, ''Did you smoke in the last 30 days?''—maybe that is one cigarette. I am not sure. That is one of the questions.

My point is that I don't want kids to get addicted to smoking. We want to do some things to discourage that. I am concerned when I see that drug use has doubled; marijuana use has doubled under this administration amongst high school seniors. That bothers me a whole lot more than the 33 percent increase in teen consumption tobacco. I happen to be a parent; I have four kids. If you tell me that maybe they smoked a cigarette once, or if they were using marijuana on a regular basis, I would be a lot more concerned about the marijuana. I don't want them to do either, and we should discourage both. But to have a campaign and have this massive effort to attack tobacco and be silent on drugs, I think, is absurd and it should not happen.

We should have a campaign against teen smoking, but we should not raid taxpayers in the process. We should not spend hundreds of billions of dollars. If you ask people, ''Do you want to reduce teen smoking?'' you are going to get a favorable poll that says 90 percent say yes. If you say, ''We are going to reduce teen smoking, and we are going to spend hundreds of billions of dollars and pass the largest tax increase in years. Do you still think we should do it?'' They are going to say, ''What?''

I think there was a poll that said 70 percent of the people thought Congress is doing this more to spend money than to help kids. They know this is more about a money grab, a big ''cookie jar,'' than about reducing teen smoking. Look at the costs. I happen to be kind of a numbers cruncher. I am on the Budget Committee and the Finance Committee and I think numbers are important.

I am going to talk about this bill quite a lot this morning. I looked through this bill, and in this bill there is no mention anywhere of a $1.10 tax increase. I am going to tell the press there is no mention of a $1.10 per pack tax increase in this bill. They mention it in the committee report, but the committee report is not the law. So how much does this bill cost? I stated repeatedly that it costs more than a $1.10; and it does cost a lot more than $1.10. People will say, wait a minute, where did you get the figures? I got the figures from the bill, not from Senators' statements or from reading The Washington Post or The New York Times, where the headline was ''Senate to Stay With $1.10 Tax Increase.'' There is not a $1.10 tax increase in this bill; there is a lot more. It is going to cost consumers a lot more. Is it going to cost tobacco companies a lot more? I don't think so.

As a matter of fact, I put on this chart the gross tax increase on consumers in billions of nominal dollars. These new taxes cost consumers, but do they cost tobacco companies? Not a dime. Let me go through a couple of the provisions, Mr. President. Before I do, I will submit the chart I have already discussed about the increase in use of marijuana and also cigarettes into the RECORD.

I ask unanimous consent to have the chart printed in the RECORD at this point, along with another chart regarding the national tobacco settlement trust fund.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

12TH GRADERS USE OVER 30 DAYS

Class of	Marijuana	Cigarettes
1980	33.7	30.5
1981	31.6	29.4
1982	28.5	30
1983	27	30.3
1984	25.2	29.3
1985	25.7	30.1
1986	23.4	29.6
1987	21	29.4
1988	18	28.7

12TH GRADERS USE OVER 30 DAYS—Continued

Class of	Marijuana	Cigarettes
1989	16.7	28.6
1990	14	29.4
1991	13.8	28.3
1992	11.9	27.8
1993	15.5	29.9
1994	19	31.2
1995	21.2	33.5
1996	21.9	34
1997	23.7	36.5

NATIONAL TOBACCO SETTLEMENT TRUST FUND

[Gross tax increase on consumers in billions of nominal dollars]

Year	Initial payment	Annual industry payments	Maximum potential lookback assessments	Grand total
1999	10.00	14.40		24.40
2000		15.40		15.40
2001		17.70		17.70
2002		21.40	4.40	25.80
2003		23.60	4.52	28.12
2004		24.31	4.64	28.95
2005		25.04	4.77	29.80
2006		25.79	4.89	30.68
2007		26.56	5.03	31.59
2008		27.36	5.16	32.52
2009		28.18	5.30	33.48
2010		29.03	5.45	34.47
2011		29.90	5.59	35.49
2012		30.79	5.74	36.54
2013		31.72	5.90	37.61
2014		32.67	6.06	38.73
2015		33.65	6.22	39.87
2016		34.66	6.39	41.05
2017		35.70	6.56	42.26
2018		36.77	6.74	43.51
2019		37.87	6.92	44.79
2020		39.01	7.11	46.11
2021		40.18	7.30	47.48
2022		41.38	7.50	48.88
2023		42.62	7.70	50.32
Total, 25 years	10.00	745.67	129.88	885.55
Total, 5 years	10.00	92.50	8.92	111.42
Total, 10 years	10.00	221.55	33.41	264.96

Annual industry payments are adjusted for the greater of 3% or CPI–U beginning in year 6. This estimate does not include potential increases or reductions in industry payments resulting from changes in the volume of tobacco sales.

Lookback assessments would be initiated after year 3 if underage tobacco use is not reduced by specified percentages. The maximum lookback assessment of $4.4 billion is adjusted for inflation. Does not include an estimate for brand-specific lookback assessment.

Source: S. 1415 as modified on the Senate floor.

Mr. NICKLES. Mr. President, I am also going to insert a table that shows new tax assessments and penalties that are in this bill. The national tobacco settlement trust fund is what I am going to talk about now. This is the trust fund, the big kahuna. There are a lot of other taxes, penalties, but this is the bulk of the money. If a person was interested, they could look at this provision in the bill. If you go to page 179, it talks about the trust fund. You can see on page 181 that it says tobacco companies, in the first year, pay $10 billion. Then on page 182, it says—in the first year, you also pay $14.4 billion. That is the reason why the first year payments are $24.4 billion on my chart. It doesn't say anything about a $1.10 tax, or any other tax. It says, industry, you pay $24.4 billion. I have heard some people say, well, we are going to raise the tax gradually to $1.10. It starts out at 65 cents. The only mention of a per pack tax is in the committee report. It starts at 65 cents and ends with $1.10.

I am just telling you that those numbers don't add up. I have told this to my colleague from North Dakota, and maybe he will believe me by the time I finish this presentation. The bill

doesn't mention $1.10. We are passing a bill, not a committee report. We are passing a bill. The bill says in the second year the companies will pay $15.4 billion. The third year is $17.7 billion, then $21.4 billion, and then $23.6 the fifth year. Thereafter, it is adjusted for inflation. That is where these numbers come from. These numbers are adjusted for inflation. At a minimum of 3 percent, regardless of whether there is any inflation or CPI, whichever is greater. The bill says a minimum, so I put in the 3 percent.

Now, some of my colleagues and the administration said this bill raised $516 billion. That number is in the committee report. The committee report embarrasses me. I am embarrassed by the work that the Commerce Committee put together, but frankly I shouldn't really blame them. I want to blame the administration because, frankly, they wrote the bill. It wasn't the Commerce Committee; it was the administration. The administration-drafted report even has a section that says payments will be no greater than $516 billion. That is hogwash. As a matter of fact, I have a letter from OMB that says you only compute $516 billion if you deflate the industry payments to constant 1999 dollars. That is where they get $516 billion. Those are constant 1999 dollars. They make it look a lot smaller than it is.

Frankly, that is not the way we do accounting in the Senate. The bill says, here are the payments and they are adjusted for inflation, and, frankly, these are conservative because I will tell you that sometime in the next 25 years, you are going to have more than a 3 percent inflation rate. We know that. So I am going to tell you that the $755 billion in industry payments over the next 25 years is conservative. It is much more conservative than what will actually happen. I will also mention that I didn't add look-back assessments. The administration, when they said $516 billion also didn't add the look-back. Then, they increased the look-back to $4.4 billion when they rewrote the bill over the weekend. The administration rewrote the bill over the weekend, not the Commerce Committee or the Finance Committee. The Finance Committee reported out a bill and some amendments and said, let's scrap this industry payment nonsense and come up with a tax increase. I didn't support it—a $1.50 tax increase—but at least it was honest.

This bill is very misleading. These industry payments are very deceiving. We ought to be ashamed of ourselves. I will talk about the look-back provisions in a minute. I didn't even add the look-back, yet, but if you add the look-back at another $130 billion the total tax increase is $885 billion. These are just the facts. These are the facts that you get if you read the bill—if you read the bill on page 182, page 183 and page 184.

Then you find out that they did a lot of other silly things in this bill. I guess silly things maybe to protect certain constituents or certain parts of the industry. But, if you think you are passing a $1.10 tax on all tobacco, you will find out that they exempted some companies. They exempted some companies. I thought excise taxes were excise taxes, like excise taxes on gasoline—the Federal excise tax is on all gasoline, made in North Dakota and Oklahoma. Except perhaps for gasohol. I don't think we should exempt gasohol. But we do. But this bill exempts certain companies from the tax. If their sales are less than 1 percent, they pay no tax. What does that mean? You already have a 24-cent Federal excise tax on cigarettes. Everybody pays it. There is no exemption on that. Congress has already increased that in the future to go up to another 15 cents. That is going to be 39 cents. Everybody pays that. But this committee said for this additional tax or fee some companies need not pay. Think about that.

Everybody else is going to have to pay this. Let's say the tax is $1.10. I think it is much more than that. But most companies will have $1.10 additional cost put on their products, and some companies won't. That makes sense, doesn't it?

I also looked at the tax increases on other products. I would love to have a sponsor of the bill explain to me how they did this. Take a product like snuff. I calculated the tax increase on snuff, that little round package, you know, you put a pinch between your check and your gum. The tax increase on snuff is over 3,000 percent. That is a significant tax increase. Right now it is 2.7 cents per little can, and it goes up to 85 cents. That is a pretty good increase. Maybe 85 cents is the right amount. But I will venture to say nobody in here knows that. That little can costs about $3 and something. That is a pretty good hit.

We at least ought to know what we are doing. I don't think anybody here knows what they are doing.

Then we find in the bill that some smokeless tobacco companies, small manufacturers, are getting a smaller tax increase, 60 cents. For most of the snuff people, the people who make these little round things, we are going to increase their tax by 82.5 cents. But for some people we are only going to increase it 60 cents, because they are small, or maybe because their Senator said, ''Hey, they are not part of the problem, they are not very big. They sell less than 150 million units.'' I thought we were interested in children's addiction. So we are going to give this company a 20-some-cent advantage over other companies? That is in the bill. That is on page 185, if anybody cares to look at it. I wonder how many of us really looked at this bill.

Excise taxes, if they are going to be on snuff, should apply to everybody. But we didn't do that in this bill. I say ''we,'' the Commerce Committee. The Finance Committee did tax everyone, and in proportion to the tax on cigarettes. Finance said, ''Let's scrap all this industry payment nonsense and have an excise tax.''

I am going to show you that this tax is a lot more than one dollar and a dime. And I don't think there is any question it is more than a dollar and a dime. Yet, people are still under the facade that this is $1.10. Why? Because OMB said it is, and Treasury said it is. I don't think that is the truth. The bill says, here is the amount of the industry payment, pay it. Not everybody has to pay. One company made a deal, and said, ''Hey, we have already settled. So we are not part of the problem. So we don't have to pay the excise tax.'' They have a much better deal. It is worth hundreds of millions of dollars. We are getting ready to pass it. I don't think that makes sense. I think we ought to be ashamed of ourselves the way we are legislating.

There is a reason why we have committees of jurisdiction. And we violated it grossly. I thought maybe we fixed it when the Finance Committee took this bill. But, obviously, the Commerce Committee and the administration said, ''No, we don't want to do that. We like what we have.'' I will tell you why. Because they are going to get more money, in my opinion, than they would get at $1.50.

I was halfway tempted to vote for the amendment of the Senator from Massachusetts amendment to raise the tax to $1.50. If you had a real tax at $1.50, I think it raises less money than the figures we are talking about. Maybe I am wrong. The press is going to report $1.10 and $1.50. That is what the press reports. I think this payment scheme equates to more than $1.50. This chart shows $40 billion or $50 billion per year in the future. Guess how many packs are sold a year? About 24 billion packs a year. If you have a $1 tax, assuming you had no reduction in consumption, you are talking about $24 billion. This bill is in that neighborhood already in the first year—not just the fifth year. We are talking about the first year. That is going to be about a $1 tax paid for 1999. You have the $10 billion initial payment. That equates to about $1 a pack. The tax on snuff and smokeless, and so on, doesn't raise a lot of money cumulatively, but it is a huge tax increase.

On chewing tobacco, the tax goes from a very small two-and -a-quarter cents per 3 ounce pack of chewing tobacco to over 40 cents—almost 41 cents. That is a 1,711-percent increase in one fell swoop. That is a big hit. I think it is a nasty habit. If you want to tax it and eliminate it, maybe that is what some people are trying to do. But we at least ought to know what we are doing. I would venture to say that maybe a lot of people in the Senate don't.

I want to talk a little bit about the look-back provisions. I think I heard Senator HATCH, and others, say that the look-back is unconstitutional. I think he is right. I will tell you, I am not a constitutional scholar. I will not

enter that debate. I will tell you, it is unworkable. I heard somebody say the industry has signed off on the look-back provisions. I have not been talking to the industry, but I am pretty sure they are planning on contesting them on constitutional grounds. And they are pretty confident—at least that is what my staff tells me—that they would win.

What does the look-back do? It could raise a lot of money. And evidently the administration thinks this is real money and it is going to happen because they increased the amount to $4.4 billion over the weekend. The look-back grew by over 10 percent over the weekend. It is much higher now than when it passed out of the Commerce Committee.

That is interesting. How does it work? If a person was interested, they could look on page 106 of the bill and find the look-back section. This is kind of interesting. How does this work? Is this going to be a real incentive for companies to curtail smoking? I found out these provisions are very interesting. They start on page 103 of the bill and go through to page 109. I will just talk about this for a second.

The look-back says the Secretary—talking about the Secretary of Treasury—shall conduct a survey to determine methodology and the percentage of all young people who use a type of tobacco product within the last 30 days. It says ''a type of tobacco product within 30 days.'' He is going to take a survey, a poll.

A lot of us are in the political business. All of us in the Senate take polls. The Secretary of the Treasury is going to take a poll. Keep in mind that of all tobacco consumption, only 3 percent of it is done by teenagers. Keep in mind that it is against the law for teenagers to smoke in every State. It is against the law to smoke if you are less than 18 years old. He is going to take a poll and find out how many are trying tobacco. These numbers are going up. Maybe they did it once, or more. They are going to take a poll. The poll is going to also specify: ''Did you use tobacco?'' and ''What brand did you use?''

Then there is a complicated formula. But if a tobacco company's numbers don't come down, then we are going to be subject to special assessments.

I should mention more about the poll—this is interesting. Every poll that I have ever seen has pluses and minuses. There is a range of plus or minus 4 percent. This cannot be entirely accurate, because they are not going to ask every teenager age 11 through 17, ''Did you smoke?'' That wouldn't be too cost effective. They might do it maybe for that reason.

On page 106, it says, the survey is deemed conclusively to be proper, correct, and accurate for purposes of this act. They deem their poll whenever they happen to take it to be accurate.

That is interesting. I just think of the games that could be played with that.

Let's see, if they took their poll around the Fourth of July, there may be a greater instance of tobacco use on the 4th of July, or maybe the Memorial Day weekend, or maybe the Labor Day weekend when people are going to the beach. If they want to jack the penalties up, ''Let's take the poll then.''

I just fail to see that this is a good way to do business. If the company doesn't meet the underage tobacco use goals as outlined by this bill, then there would be significant penalties—very significant penalties, up to about $4.4 billion, and indexed for inflation. So on my chart the totals increase rather significantly to $130 billion. Those aren't tax deductible.

Is that really workable?

Then there is another section.

There is an additional look-back assessment on brand-specific underage tobacco problems. If you look on page 112, which talks about if they miss their percentage share, tobacco companies could have an additional surcharge of $1,000 per teenager.

The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000 multiplied by the number of individuals for which such firm is in noncompliance with respect to its target level reduction.

So we have target-level reductions. It starts out at 15 percent. It gradually increases to 60 percent. They are going to take a survey and find out what brand of cigarettes this youngster is smoking. So in this random survey, if a bunch of kids say, ''Yes, I had a Marlboro,'' mark them down, and for every child they determine smoked that brand of cigarette, they are going to assess the company another $1,000.

Now, I find that to be ludicrous. There are hundreds of brands of cigarettes—hundreds, and so we are going to have the Department of Treasury conducting this poll asking teenagers did you smoke. And if you did, what brand? And it may be they can remember the brand, maybe they can't. Maybe they smoked one cigarette; maybe they bummed a cigarette; maybe they don't tell the truth; maybe they don't respond; or maybe whatever. We are going to be assessing penalties to the tune of $1,000 for every teenager deemed by this poll to have used this particular product.

That is ludicrous. I want to warn my colleagues. I may not have the votes, but I am going to probably try and strike that. If we don't strike that, it is going to come back to haunt you. You are going to be embarrassed because we put language in here that says this poll was deemed to be accurate and therefore whatever the Secretary says is law and as a result here is your penalty. We have determined that there are 10,000 youngsters in the age category who are using your brand and they are age 17 or less, and therefore we are going to sock it to you.

This doesn't make sense. If you want to figure out ways to punish tobacco, to fine tobacco, do it. But this is not the right way. This is not workable. You should trash this whole thing and say, if you want to increase tobacco tax $1.10, do it. Do it tomorrow. This thing phases it in over five years.

My point being, if you are going to try to reduce consumption, you want to have a sticker price shock. You don't phase it in over 5 years. They will never see it. They won't know it. It won't make the reduction in use. It won't get consumption down. It won't be effective.

Wow, what did we do. We raised hundreds of billions of dollars, but did we achieve our objective? I don't think so. What did we do? Maybe the objective was to raise billions of dollars so we would have a lot of money to spend. Maybe that's the case. I don't know. I hope not.

Mr. CONRAD. Will the Senator yield for a question?

Mr. NICKLES. I have a lot to say.

Mr. CONRAD. I understand. I don't want to interrupt the Senator. I just want, if I could for the purposes of the RECORD, if nothing else, and maybe for the education of both of us, to ask just one question.

Has the Senator, in the numbers that he has displayed on the chart, made any volume adjustment?

Mr. NICKLES. Let me go to that, and I appreciate the Senator's comments because I knew the bill's proponents would say my numbers don't assume a volume adjustment.

The administration, when they did their projection to come up with a $516 billion price tag for this bill, they did no volume adjustment. When the AGs came up with their price tag for the settlement, they didn't do a volume adjustment. And finally, we discovered that the White House changed the volume adjustment threshold in this legislation over the weekend. That bothers me a lot. That was changed Sunday or Monday night. And that bothers me a lot.

Let me conclude. I know what my colleague is going to say. Let me take you through this a little bit further.

The volume adjustments, the formula that passed out of the Commerce Committee says the industry payments will be reduced by the volume. If there is a reduction in sales, we will reduce the tax. Again, in calculating the costs of their own bills, both the $516 billion current dollar estimate and the $755 billion nominal dollar estimate, they didn't calculate the volume adjustment.

Now, what happened Sunday and Monday night was a humongous tax increase that nobody knows about because the volume adjustment was triggered not when sales dropped below 100 percent of 1997; it is triggered when sales drop below 80 percent of 1997. So you get no volume reduction unless you reduce total consumption to below 80 percent where we are today. So I am not sure there will be a volume adjustment ever.

Now, I do not know if my colleague caught that. In the original Commerce bill, it says we will take these figures on my chart and we will reduce them, if there is a reduction in volume of sales. We will have a CPI increase, and we will have a volume decrease, and so maybe the figure will stay close to $23 billion. If volume went down 3 percent and CPI went up 3 percent, maybe you could take this figure, $23 billion, for all future years.

Well, what they did in the stealth of the night of Sunday or Monday, they said, oh, we are going to change that. We are not going to give a volume adjustment unless they reduce total consumption to below 80 percent of where it was in 1997. Wow.

Now, this is getting too complicated. Most of our colleagues aren't going to follow it, and I don't want to get too bogged down in the minutia, but that is a big tax increase. That means you are not going to have reductions. You may never have a reduction.

My point being, that the way you do volume adjustment, the real way is to have a direct excise tax on the product—very clean, very simple. You don't have to argue about whether or not you are talking about constant dollars, inflated dollars, whether you are talking about volume adjusted. If you have an excise tax per pack, if you sell less packs, so what. You have accomplished your objective. You have done it.

This is the worst method to tax we have ever imposed in the Federal Government that I can find. This is so convoluted, so distorted, so deceptive, so contrived say we are raising taxes $1.10 and not do it. If our colleagues want to be honest, they would say let's scrap all this and let's make the tax $1.10, and then you have an automatic volume adjustment. You have an automatic volume adjustment. Because if you purchase less, then that will happen.

Let me just mention, too, the volume adjustment section, just for my colleagues'——

Mr. CONRAD. Will the Senator—

Mr. NICKLES. I really don't want to. I have a lot to go through and I want to finish this. I am this far and I have a lot more to go. So I will be happy to talk to you in just a minute. But I want to run through several things, and I don't want to get too bogged down on that one particular thing.

Mr. President, let me just touch on a few other things. And I mention that, Mr. President, and I will guarantee you that not one Member, maybe not any Member, certainly not more than two members of the Commerce Committee or the Finance Committee knew anything about that change in the volume adjustment, and it is a big change. It is different than the committee reported bill. And, again, I am troubled by these games. I am troubled by people saying, oh, here is what the bill says and then to play games maybe late at night, Sunday night, Monday night, and have this bill written by the administration. This is not a Commerce Committee bill. This is an administration bill.

I think it cries out for change, and the change should be this, I tell my colleagues. The change should be to call a tax a tax. Senator LAUTENBERG introduced a bill that said let's have a $1.50 tax. That is what the Finance Committee passed. Whatever the tax is, whether it is a $1.10 or $1.50, whatever, we should pass the tax increase per pack plain, simple, clean, and not play this game of, industry, you pay in all these hundreds of billions of dollars, and maybe we will give you some reductions if consumption comes down, but we are going to have penalties if X, Y, Z brand doesn't go down as much as we think it should go down among certain people. That is absurd, and that is what we have, all based on polling that they deem to be accurate. That makes no sense, no sense whatsoever.

Let me go on through a few other points. I am going to try to speed the pace up. There are tobacco distributor licensing fees, brand new; there are nonpayment penalties, there are document good-faith payment penalties; there are antismuggling penalties; and then we get into new spending. So all this is on the revenue side. This is on the tax side. This humongous tax bill, I don't care what period you are looking at, this is a bigger tax bill—gross, net, any figure you want to use—a bigger tax increase than the tax cut we passed last year. Maybe that will help put it in perspective.

Last year, in a bipartisan manner, we passed $500 tax credit per child. This year, for 1997 it is $400. We passed that. We reduced capital gains from 28 percent to 20 percent. That is one of the reasons you have seen Federal revenues grow by over 10 percent this year. It is because we cut capital gains. People like that. People have more financial transactions, and you are not taxing those transactions so much. It raised a lot of money for the Government. We reduced estate taxes by increasing the exemption. We provided IRAs. We did a lot of good things in the tax bill, a lot of good things.

Guess what, this tax increase overshadows it. This tax increase overshadows it, and it is paid for, the strong majority of this is paid for, by individuals making less than $30,000, $40,000 a year. This is a tax increase on low-income people. It is a humongous tax increase. It is bigger than all the tax cuts we gave last year, than all the tax cuts. So that should concern people.

My colleague, Senator GORTON of Washington, said we should have some tax relief. We are going to have a humongous tax increase; we should have some relief.

We are getting to the spending side now. This is one of the problems that bothered me. I told my colleagues from the outset, I will work to pass a good bill to reduce teenage consumption of drugs and tobacco. I will. I will not support passing a bill that spends hundreds of billions of dollars so government can grow. We grow government in this bill like there is no tomorrow. This bill has government growing from the State level, government growing from the Federal level, government growing at almost any excuse. And the administration wrote every bit of it.

Did they consult the Appropriations Committee? Did they consult the Budget Committee? No way. We made a little improvement. In the bill that passed the Commerce Committee, this was all off budget and it wasn't subject to an appropriation. All of that was an entitlement. We changed it. Now, only half of it is entitlement. The States are entitled to 40 percent. That is an entitlement. We can't touch that. And then the farmers are entitled—under the bill from the administration and Commerce Committee, farmers are entitled to $28 billion.

I know Senator LUGAR is going to have an amendment to reduce that, but in both cases those are entitlements. In both cases we are spending billions of dollars. I have a problem with that. I don't know how I can go to my farmers and say those tobacco farmers are going to be entitled to get maybe $18,000 an acre on this buy-out, and of course they can continue producing tobacco after we buy them out. We will buy their quota, but, yes, they can continue producing tobacco forever. I have trouble with that.

I have trouble with, Who is going to get most of this money? Let's see; let's figure out who is going to get the money. I mentioned my mother had emphysema and lung cancer. Does she get any money? No. Do victims get any money? No. Government gets money. Who gets money? Do victims of cancer and smoking-related disease and problems get money of out of this? No. Who gets the money? States get the money. The Government gets the money.

Where are they going to use the money? The bill says the States get 40 percent of the money, and they are going to get at least $196 billion so they don't sue the tobacco companies. Four have done it and settled. More power to them. Congratulations.

Who is going to benefit from that? I guess the States do. They get some money. In the State of Florida, out of an $11.3 billion, the trial attorneys get $2.8 billion. That is 24.7 percent. In Texas, they had a $15.3 billion deal; the trial attorneys get $2.2 billion.

We had an amendment the other day to limit it. Maybe it was too low. I am going to tell my colleagues, you are going to have another chance. But we are going to give a few individuals, maybe 50 individuals or something, we are going to make them multimillionaires, maybe billionaires? We have had some of these people working the halls of Congress. These guys, some of them have chances to become billionaires, with a ''b.''

And I am all for people making money, I think that is great, but we should not do it raising taxes on consumers making under $25,000. We are

getting ready to do it, and I will tell my colleagues, if we pass this and if somehow you are successful—and I don't think you will be—but if some forsaken way you are successful getting this through conference the way you have it set up right now, you will be more than embarrassed. You will be reading about individuals making hundreds of millions of dollars, trial attorneys making hundreds of millions of dollars off this deal. And you had your hands on it? I would be embarrassed, and I think that you would. I think we are going to fix it.

I noticed the Senator from North Carolina was here, and he tried to fix it with one amendment. It didn't pass, but my guess is we have some other ideas. I think we will fix it before it leaves the Senate. If we don't fix it before it leaves the Senate, we will fix it in conference. If we don't fix it in conference, I hope we don't have a bill. I hope we don't have a bill anything like this. And, again, I reiterate my position, I think we can come up with a bill that will be good to curb teenage smoking and consumption of drugs and tobacco. But I do not think we have to come up with a scheme that spends either $500 billion or $755 billion or $885 billion. I don't think we have to do it. I know we don't have to do it.

Some people are saying, ''I am reading a poll and''—I don't care what the poll says. Let's do what is right. Let us try to curb teen smoking. You don't have to do all of this.

The FDA came up with their regulations 2 years ago, and they said their regs alone were going to reduce consumption by 50 percent. There is not a lot of difference between 50 percent and 60 percent, except I see hundreds of billions of dollars being spent in the process. So, let me talk about that. I talked a little bit about the money going in. I am telling you, there is a lot more money going in than people have mentioned. If they say there is only a dollar and a dime, let's pass an amendment and say here's a dollar and a dime, and I guarantee these figures will shrink. They will shrink.

Mr. CONRAD. Will the Senator just yield on that point?

Mr. NICKLES. No, I won't yield. I am going to continue or I will never get done, and then I will be happy to yield for a question.

The spending side of this equation, I mentioned it has a couple of entitlements. The States get 40 percent of revenues. We tell the States: You have to spend half of it as the Clinton administration decreed. You have to spend half as they said. It must be on children's health, child care, child welfare, substance abuse, education, children's health insurance—any of their little social programs that they like. Granted, the Clinton administration wants to expand the welfare state. So they say, here, States, we know that you initiated these lawsuits and you were winning some of them, but, since now we are going to take this over and federalize it, you have to spend the money the way we want.

So the bill restricts half of the state money and says: States, you spend it in a welfare-acceptable or child-acceptable manner as the Clinton administration dictates that it be spent. And then they say: States, you can spend the other half any way you want to. So that is the way we are going to increase government in the States. States, congratulations, here's your money. In exchange for that, we are going to limit your ability to sue the tobacco companies.

I can see why the companies walked away from this deal. They made a deal with the Clinton administration and the administration broke it, and they can still be sued in lots of areas. Oh, well, there is an $8 billion cap. I can see a race to the courthouse.

I am going to support the amendment of the Senator from New Hampshire to strike protections for the tobacco companies. Some people say, if you are opposed to this bill, Senator NICKLES, you must be in favor of the tobacco companies. This bill does the tobacco companies a big favor by limiting their liability to $8 billion a year. The tobacco companies are saying they are not even part of it. Why should we give them an $8 billion limit of liability? Why?

I don't see any reason to do that. I agree with the Senator from New Hampshire. So I am not going to give the tobacco companies the protection they really want. Why give it to them? It is the proponents of the bill who are trying to do the tobacco companies a big favor, not some of the opponents.

(Mr. FAIRCLOTH assumed the Chair.)

Mr. NICKLES. Mr. President, what about the money? Now we are talking about money. The States are going to get 40 percent of this amount, and they can spend half as they want, and the other half is spent as the Clinton administration wants.

They can spend it on public health—and we are all for public health. That is going to get 22 percent. So we are going to grow a lot of government in that area. Health-related research, we are all for that. Farmers' assistance, we are going to make farmers millionaires. Maybe these farmers were thinking about selling their property last week. Now, they hear Congress is getting ready to pass a bill and they say, ''I might get 4, 5, 10 times what the property is worth if I hang around.'' It would be interesting to see what is happening on tobacco farm prices right now in North Carolina, Kentucky, Virginia and other places, because Congress is going to pay them billions of dollars.

We are going to pay them so much—not per acre—per pound of quota, and we are going to make a lot of them a lot wealthier than they have ever been.

Guess what? When we are done paying them they can still grow tobacco. We can buy their farms cheaper than what will be paid under these two proposals right now. We can buy the land, have the Government take over the land and turn it into a park. I shouldn't say that out loud, because somebody is going to propose it.

We are going to make people very, very wealthy because they hold a document called an allotment. It goes back to the New Deal. If you believe in free markets, it is just totally wrong. Yet, we are going to compensate them; we are going to buy them out.

Let me go through some other new spending provisions.

There is a Medicare preservation account. Frankly, that is important, but I tell my colleagues, it wasn't in the Commerce Committee bill. It wasn't in the Finance Committee bill. It appeared Sunday or Monday night, and I object to that. I object to the administration coming in and saying, ''Oh, we have some new ideas here,'' as they did with their volume adjustment.

We have child care development block grants. This is very interesting. This was put in the Commerce Committee bill, and I objected to it. One, they don't have jurisdiction over child care development block grants, but they were putting it in anyway. They are not the committee of jurisdiction on that. I don't know if they know anything about it. They put the money in. The Finance Committee took it out. Guess what? The Clinton administration put it back in. I am troubled by that.

Then, I find they did some other things. They changed formulas for child care programs. I wonder if my colleague from North Dakota knows that. They changed the formula. We have a State match formula for Medicaid. The match in most States is 50–50. In some States, it is 70–30. This bill now reduces that State match for child care to 20 percent, because they want more child care money spent and more individuals to qualify for it. The States actually have more money now in this program than they know what to do with. People were not taking advantage of it, so they reduced the State participation down to 20 percent.

The Federal Government for child care, with this increase, is going to pay four times as much as the State pays for it. That is an entitlement. That is a change, and the Commerce Committee has no jurisdiction over that. They did it. They also have report language that says, ''Hey, let's spend about $4 billion per year on this program.'' This is a 25-year bill. That is $100 billion. It was just added. Does anybody know it? Like I said, it was in, it was out, now it is back in.

They changed the Medicaid provision, which is wrong. They put in a brand new children's health care provision, which basically reopened the welfare bill. The bill would add $25 billion for States to do Medicaid outreach on children's care. We debated welfare. We passed the welfare reform bill. Now, the administration is coming through

the backdoor on the tobacco bill saying, ''Let's expand the welfare bill.''

They did it in the middle of the night. It did not pass the Commerce Committee. They didn't ask anybody in the Finance Committee who worked on welfare reform—not one person, not staff, not anybody. They just put it in.

They also put in a provision that allows for presumptive eligibility outside the cap funding for children's health care. Last year, we passed children's health care, a $24 billion. We increased cigarette taxes to do it. I thought it was too much. I didn't support it, but we passed it. It is now the law of the land.

Guess what they did in this bill? They just put in this new language. It was not in the Commerce Committee bill. It was not in the Finance Committee bill. The administration put it in. It sickens me to know that the administration thinks they have the ability to rewrite this bill. It may have Senator MCCAIN's name on it, but it is the administration's bill. Now, they are opening up the welfare bill, and they are opening up the kid care bill we passed last year for a massive expansion. These new provisions are estimated to cost $400 million per year. They open up the balanced budget agreement. That was part of our balanced budget agreement package that we negotiated and fought so hard for. Again, they cannot find enough people to qualify for the money under the language that we already have, so they are trying to figure out new ways to spend more money.

We have new programs for cessation and other treatments, Indian Health Service, education prevention, counterads, which incidentally, I will support. This paltry bill is spending hundreds of billions of dollars. Do you know what it spends for countereducational ads to discourage the consumption of tobacco? Mr. President, $500 million a year. Big deal.

Everybody says, ''Hey, we need to pass this bill so we can reduce teen consumption of tobacco.'' So $500 million out of a total of about $20 billion dollars almost every year. All the rest is for other Government spending; in some cases, any Government spending.

The national educational effort to convince people that smoking can bring about cancer is pretty small out of this total package.

It has an Institute of Medicine study, National Institutes of Health—all of these are getting pro rata shares of money that would be authorized—Centers for Disease Control, National Science Foundation, National Cancer Clinical Trials. That program wasn't in anybody's bill. The administration put that in either Sunday or Monday. They have money in here for a State retail licensing program, State grants, of $200 million a year. It is on page 118 of the bill.

I will just tell my colleagues what this does. I am embarrassed that we would put language in that allows this to happen. But I want my colleagues at least to know it so that maybe they will agree with me. I will have an amendment at some point to strike some of this language.

The State retail licensing program codifies that portion of the FDA regulations. It provides for $200 million a year and, basically, it codifies the FDA regulations dealing with selling tobacco. That is on page 119. It says:

> Shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age, in accordance with the Youth Access Restrictions regulations promulgated by the Secretary.

Let me mention what that one little paragraph does. That paragraph says we are going to set up a whole mechanism to find out whether or not retail establishments are selling tobacco to teenagers. Maybe you say, ''Hey, I don't want retail establishments selling to teenagers.'' So how are they going to do it? There is $200 million which they give to the States in block grants. The States have to contract to set up inspection teams to do random inspections across the country to find out whether or not they are complying.

What if they don't comply? The fines and penalties are very, very significant. I looked it up. The fifth noncompliance the penalty is $10,000. For the sixth there is an even greater penalty; it is not just monetary.

So the Federal Government is going to train these inspectors. They are going to go out and do random audits. And I just have to think, what are we doing? How far are we going in this Government police business? In the committee reported bill there would have been so many inspections per State. Each individual State had a list of how many inspections. I will talk about this later, because I plan on having an amendment on it. But I say on the floor today, I believe, there have to be 4,000 inspections—smaller States less, bigger States more.

The bill was mandating thousands of inspections where these people would be going by and seeing if somebody is purchasing cigarettes. Guess what? It is not just purchasing under age 18; they are checking to see if the establishment is checking IDs for people up to age 27. So you are in noncompliance if you are a gas station and you sell cigarettes to somebody who is 26 years old. That is a violation if you do not check their ID. You are in violation of these Federal regulations if you do not check their ID.

Now, I am going to have a different speech talking about FDA regulations. But my point is, this bill sets up a $200 million new program to give money to the States. The States monitor this as we deem appropriate on the Federal level. I find that to be absurd. And the Federal Government, with its wisdom, says, ''We believe you should check everybody aged 27 or less. If you don't check them, you are subject to fines of up to $10,000.''

Wow. Now, think of that. You have some burly Marine who is 25 years old from the Marine camp in North Carolina who comes in, and he says he wants a pack of cigarettes, and you can tell he is more than 18 years old. And you are going to ask this guy, ''Oh, I can tell you're a sergeant major, but we want to check your ID''? I don't want to ask him to do that. But you could be fined up to $10,000. That is in the FDA reg.

We are getting ready to codify the FDA regs. We are getting ready to deem the FDA regs as law, which is a very bad idea. The FDA can come up with regs. They cannot write law. They cannot write law. Their regs, in my opinion, are unconstitutional. We just cannot deem something unconstitutional as law, as this bill would propose to do, whether it be in advertising or otherwise. Just to give you an example, the FDA regs said it was unlawful for tobacco companies to develop advertising gimmicks such as a hat. I have a staff member who has a hat that says ''Marlboro'' on it. Heaven forbid, what outlandish behavior. We have the Federal Government saying, ''You can't have a hat that has 'Marlboro' on it or 'Winston' ''? Give me a break. And there are penalties for noncompliance with that.

The FDA came up with some outlandish regulations. We are just going to deem those regulations as law? We are the legislative body. I think we should clarify what FDA can do. I don't mind regulating nicotine. I do not mind giving FDA some additional authority if we clearly define it, but Congress should define it. We should not just take their regs and say, ''Here. Whatever you've said is fine. It's law, no matter what court cases are already decided.'' Wait a minute. If they went too far, they breached the Constitution, we are just going to deem it as law? That is not good legislation. That is just doing whatever FDA wants.

Again, this administration wrote the bill. But we should not adopt those provisions. We are the legislative branch. We are the equal branch of the administration. Why let them write this bill? Why help them pass a bill which has no tax relief, spends hundreds of billions of dollars, and its impact on smoking is very questionable?

Mr. President, there is a lot of new spending. I am going to submit for the RECORD several specific references. I have heard people say this bill has 17 new agencies. It has a lot more than that.

Mr. President, I think I have mentioned all these. I will run through this other list in a minute. It has Indian tribe enforcement grants, Indian tribe public health grants, tobacco farmer quota payments, tobacco community grants, farmer opportunity grants, tobacco worker transition program, USDA operation of tobacco program, international tobacco control awareness effort—brand new; it was not in either bill, was not in the Commerce Committee, and was put in by the administration Sunday or Monday.

Compensation to tobacco vending owners: That was in the Commerce Committee bill. Let me just touch on that for a second. Everybody knows the FDA regs say we are going to ban vending machines. Well, if Congress wants to ban vending machines, Congress should do it. And then you say, ''Well, wait a minute. Shouldn't we compensate the vending machine owner?'' It is logical. As a matter of fact, the Constitution says you should not confiscate somebody's property without just compensation.

What do we do in this bill? We set up a corporation. And the corporation is to deem what is just compensation. I have had people come in and lobby me—some of them are very good friends —and say, ''Boy, we need this in there.'' I say, ''What kind of compensation are you talking about? How much do those machines cost?'' ''Well, they might cost $1,500, $2,000, $2,500, something like that.'' ''How much do you envision taxpayers paying you for that machine?'' ''Well, we're kind of thinking maybe $8,000 or $10,000, something along those lines.''

That troubles me. ''Well, we were going to make money off that machine for the next several years, and we would like to have the present value of the future earnings of that machine since you're taking it away from us.'' Maybe they have a legitimate argument, but that bothers me. It is the same argument that we are going to be making on tobacco farmers. Are we going to be giving them the future value of the earnings potential of that farm for a long number of years? I do not want to do it. And I love my friends from the tobacco States, but I do not want to do that. I do not want to do it on vending machines either. I just think that is a mistake.

We are getting ready to pay—if we allow this legislation to go forward,''such sums as necessary.'' We are going to be spending lots and lots of money.

This bill has a section in it, Mr. President, called ''asbestos trust fund.'' Now, I raised this with my colleague, the Senator from Arizona. The bill that was reported out of the Commerce Committee contained a $21.5 billion asbestos trust fund, originally funded separately by the tobacco companies. I objected to that, and so they agreed to fund it out of the larger trust fund. Then the Finance Committee struck it altogether and said if we are going to set up a new compensation program, we should look at it more closely. And if we do it for asbestos, shouldn't we also do it for black lung? Shouldn't we do it for brown lung? And shouldn't we do it for textile mills? Shouldn't we do it for any other number of lung diseases related to occupation?

I do not think you can stop just with asbestos. I think you have to look at black lung, you have to look at brown lung, you have to look at all of them. So the cost of this, the $21 billion, could grow like cancer, and would. I made these points in the Finance Committee. We struck it in the Finance Committee. This was never a request by the administration, and never a request by the Commerce Committee. Then it was put back in by the Commerce Committee anyway; it is back in.

They delete the authorization language and so on, but they authorize Congress to spend tobacco money whenever Congress passes an asbestos bill. You can tap into the fund an unlimited amount of money. It does not say $21.5 billion, it just opens the door. I think that is grossly irresponsible.

Does that mean I am not sympathetic to somebody who had asbestos problems and also is a smoker and had lung cancer and has a problem? No. I am very sympathetic. But I am also looking at what we are doing here. And we are in the process of expanding a program greatly out of control.

It has money in it for the Veterans Affairs' tobacco recovery fund—not specified; wide open; no limit to how much it could cost.

Is has an attorney fee arbitration panel. I touched on this before. This arbitration panel is a three-member panel, with no limit as to how much this would cost. I heard some people say, ''We can't do that.'' Now, wait a minute. Everything else has limits. I am going to submit this list of programs for the RECORD, but we have about 30-some-odd guidelines on how this money should be spent.

But we are going to leave a blank check in here for attorney fees? Now, give me a break. Congress is in the process of raising these taxes, putting this money in the fund. Congress is also responsible for spending the money: ''Here, States, here is how you spend it. Here is how you must spend it. Here is how we're going to spend it. And we can place restrictions on what attorney fees should be.

Right now if we pass this bill, the clear winners are trial attorneys. The clear losers are consumers, low-income smokers. They are the losers. The trial attorneys are the victors. They are the winners. They win big time. They become millionaires—billionaires, maybe in some instances. And the losers are the people who see their total Federal tax liability increase by 44 percent if they make less than $10,000. They are the losers. They are big-time losers. Are we going to fix it? I hope we will fix it.

Mr. President, I ask unanimous consent to print in the RECORD attorney fees from the States of Mississippi, Florida, Texas, and Minnesota.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE SETTLEMENT TOTALS/ATTORNEY FEES

State	Total (dollars in billions)	Fees
Mississippi	$3.4	$250 million (7.3%)
Florida	11.3	2.8 billion (24.7%)
Texas	15.3	2.2 (14.4%)
Minnesota	6.6	450 million (6.8%)

Mr. NICKLES. There is a Scientific Advisory Committee, there is a National Tobacco Free Education Advisory Board. That concludes this list. And we haven't found them all yet. Since we also added the Lugar amendment, there are several provisions, some of which are similar but not near as extensive or as expensive as that provided in the Commerce Committee bill. It adds a tobacco community's revitalization trust fund, it adds a tobacco quota buyout, block grants, tobacco farmer assessment, and so on.

I want to be fair on both sides of the tobacco argument. You add all that together, you have 30-some new programs funded in this bill. You have hundreds of billions of dollars funded in this bill. You have trial attorneys who, in all likelihood, will make over $100 billion out of this bill—$100 billion out of this bill.

I ask unanimous consent to have printed in the RECORD new taxes, assessments, penalties, and new spending authorizations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

What's New in the White House tobacco bill

NEW TAXES, ASSESSMENTS, & PENALTIES

National Tobacco Settlement Trust Fund	Funded by the net revenue from $102 billion in deductible industry payments over 5 years, ($885 billion over 25 years), increased for inflation, increased/decreased for volume, subject to appropriation except state share and farmer money, Section 401, 402, and 403, page 179.
Lookback assessments—industry wide	Up to $4.4 billion per year beginning in 3rd year, increased for inflation, not deductible, Section 204(e), page 106.
Lookback assessments—brand specific	$1,000 per underage user above specified reduction targets beginning in 3rd year, increased for inflation, not deductible, Section 204(f), page 109.
Tobacco distributor licensing fees	Secretary may set fee level to cover costs of registering tobacco manufacturers and distributors, Section 1139, page 384.

What's New in the White House tobacco bill—Continued

Non-payment penalties	Prime interest rate plus 10% of unpaid balance after 60 days late, Section 406, page 190.
Document good faith penalties	$50,000 per violation, Section 908, page 258.
Anti-smuggling penalties	$10,000 per violation, Section 1137, page 377.
NEW SPENDING AUTHORIZATIONS—GENERAL ALLOCATION OF FUNDS	
State Litigation Settlement Account	40% of net revenues, adjusted after 10 years to equal $196.5 billion over 25 years, sent to states without appropriation, distribution formula to be determined by states, 50% may be spent on anything, 50% must be spent on children's health, child care, child welfare, substance abuse, education, and children's health insurance, Section 451(a), page 192 and Section 452(b), page 200.
Public Health Account	22% of net revenues plus all of lookback assessments, subject to appropriation, Section 451(b), page 194.
Health & Health-Related Research Account	22% of net revenues, subject to appropriation, Section 451(c), page 197.
Farmer Assistance Account	16% of net revenues for 10 years, then 4% until $28.5 billion cap, Section 451(d), page 198.
Medicare Preservation Account	Excess industry payments for 10 years, then 12% of net revenues, Section 451(e), page 199.
NEW SPENDING AUTHORIZATIONS—SPECIFIC PROGRAMS	
Child Care Development Block Grants	Such sums as may be necessary, committee report recommends $4 billion per year, state-match reduced to 20%, Section 1161, page 385, and Section 452(d) page 202.
Children's health care	$25 million for states to do Medicaid outreach for children's health care, and allows funding for presumptive eligibility outside of capped funding for children's health care, Section 452(f), page 203.
Cessation and other treatments	25%–35% of the public health account, 90% of which is block granted to the states, Section 451(b)(2)(A), page 194 and Section 221, page 129.
Indian Health Service	3%–7% of the public health account, Section 451(b)(2)(B), page 194.
Education, prevention, counter-ads, international.	50%–65% of the public health account, Section 451(b)(2)(C), page 195.
FDA enforcement, state licensing, smuggling.	17.5%–22.5% of the public health account. Of that amount, FDA receives 15% in 1st year, 35% in 2nd year, and 50% in 3rd year, Section 451(b)(2)(D), page 195.
Institute of Medicine study	$750,000, Section 451(c)(2)(A), page 197.
National Institutes of Health	75%–80% of health research account, Section 451(c)(2)(B), page 197.
Centers for Disease Control	12%–18% of health research account, Section 451(c)(2)(C), page 198.
National Science Foundation	1% of health research account, Section 451(c)(2)(D), page 198.
Medicare Cancer Clinical Trials	$750 million over 3 years from health research account, Section 451(c)(2)(E), page 198.
State retail licensing program—state grants.	$200 million each year, Section 231, page 118.
Compliance Bonuses for States/Retailers	$100 million each year, Section 232, page 128.
National Medal of Science	CDC funding to be used to establish a National Medal of Science, Section 454, page 207.
Indian tribe enforcement grants	Amount not specified, Section 603(d)(3), page 222.
Indian tribe public health grants	Amount not specified, Section 603(e), page 223.
Tobacco farmer quota payments	$1.65 billion entitlement per year for 25 years, Section 1011(d)(1), page 491.
Tobacco community grants	$10.5 billion entitlement over 25 years, Section 1011(d)(3), page 491.
Farmer opportunity grants	$1.44 billion entitlement over 25 years, Section 1011(d)(5), page 491.
Tobacco worker transition program	$25 million entitlement per year, Section 1011(d)(4), page 491.
USDA operation of tobacco program	Such sums as may be necessary, Section 1011(d)(2), page 491.
International tobacco control awareness effort.	$350 million through 2004 and such sums as necessary thereafter for grants to individuals, corporations, or other entities, Section 1107, page 361.
Compensation to tobacco vending owners	Such sums as may be necessary from general fund or tobacco fund, Section 1162, page 386.
Tobacco vending reimbursable corporation	Section 1162(b)(2), page 387.
Asbestos trust fund	Authorizes such sums as necessary for future enactment of an asbestos trust fund, Section 1201, page 402.
Veterans affairs tobacco recovery fund	Not specified, Section 1301, page 403.
Attorney fee arbitration panel	Section 1403, page 438.
Scientific advisory committee	Section 906(e)(2)(B), page 49.
National Tobacco Free Education Advisory Board.	Section 221 of the bill, new section 1982(b), page 148.
ADDITIONAL ITEMS IN THE LUGAR AMENDMENT	
Tobacco Community Revitalization Trust Fund.	Funded with such sums as necessary from the National Tobacco Settlement Trust Fund, Section 1511, page 450.
Tobacco quota buy-out	Payments of $8 per pound of quota owned, or $4 per pound of quota leased for production, paid over 3 years, Section 1515 & 1515, page 452.
Rural economic assistance block grants	$200 million per year for 4 years in block grants to states, Section 1521(a), page 454.
Tobacco farmer assessment	Marketing assessment set by the Secretary to cover the annual costs for federal administration of extension, inspection, and crop insurance related to tobacco.

Source: S. 1416 as modified in the Senate (5/18/98).

Mr. NICKLES. Now, are we going to pass that? I know I saw an ad by Dr. Koop saying we need to. I love Dr. Koop. I know he is very sincere. But I don't think you have to spend hundreds of billions of dollars to go after teenage consumption of tobacco or of drugs. And I think we should go after both. I think we would be grossly irresponsible if we don't go after both.

I am concerned about the cost of this bill. I told my friend and colleague from Arizona that I have the greatest respect for him but I don't have great respect for this bill. I think this bill is one of the worst pieces of legislation that Congress has considered since the health care dictates of the President and Mrs. Clinton several years ago. That bothers me. I don't think we should pass it in the Senate. I told my colleagues I am not going to just stand back and throw rocks at it. I will try to make some improvements.

I read a list of the sections, and I don't think there should be an asbestos section. I may have an amendment to delete it. I don't think we should have the massive industry payment system. I am going to try to talk my colleagues into replacing it with a simple excise tax. Raise it $1.10, so you know exactly the amount. I am not comfortable with the fact that some people are saying it is $1.10, but it raises more money than that, so maybe they will have more money to spend. There is no doubt in my mind that these payments, and you divide that out by the number of cigarettes sold, if you are selling 24 billion cigarettes, you realize this will raise a lot more money than $1.10. We are talking about big money. We are talking about it every year.

The tobacco settlement was originally, when fully implemented, about $15 billion a year. This bill starts at $24 billion, and by the year 2002, assuming the kickback comes in, $30 billion. That is a lot of money—3,000 percent

increase in the tax on smokeless tobacco and so on.

Maybe people don't care. I care. I care about the procedure. I think some of my colleagues from the tobacco areas were upset about the procedure. I think when you are dealing with the agriculture section, that should have come out of the Agriculture Committee. Commerce Committee is not supposed to write the agriculture section. And Commerce Committee is not supposed to write the tax section. And they did both and they did a crummy job on the tax section. This is the worst tax law I've seen. If we pass it, it would be the worst tax bill Congress has passed. With all due respect, it wasn't even done by the Commerce Committee. It was done by the administration. President Clinton didn't want to use the word ''tax'' so he thinks they hide it by using the word ''fee,'' but it is not a voluntary fee.

If tobacco companies were in agreement with this, this would be voluntary, it would be a fee, and in return they get some liability protection, and that is what they negotiated with the attorneys general. Maybe that would work. This is not voluntary. There is no provision that says if the tobacco companies don't like the fee, they don't have to pay it. There is no provision like that. So it is a tax. Congress has the power to tax, but if we are going to tax, let's tax right.

The cigarette excise tax right now is 24 cents per pack. It is going to 39 cents by 2002. This bill purports to raise it another $1.10, so that goes to $1.49.

So for my colleagues who are trying to push the tax to $1.50, it will be $1.10 by the year 2002 under this bill, plus indexed for inflation. So maybe you have a lot more than you really realized.

Let me take you through the numbers again. The tax on cigarettes today is 24 cents per pack. Congress, last year, I believe, increased that tax 15 cents—24 and 15 is 39 cents. That is already law. This bill adds to that, purportedly, another $1.10. A $1.10 on top of the 39 cents is $1.49. So the Federal excise tax on tobacco, at a minimum, will be $1.49 in the year 2002, plus it is indexed for inflation forever. This is indexed at inflation, or 3 percent—whichever is greater. Never had an index that I know like that. I don't know that that makes sense, but we have it in there. Why do we have it in there? So we put more money in the pot so we have more money to spend. I don't think we should do that.

What should we do? We should work together to come up with a responsible package. I am willing to do that. I think this bill goes way too far.

I haven't touched the regulatory side of the bill. I will save that for another speech, and hopefully maybe the FDA section will have some common sense come into it. We don't want to give this unbridled authority to the administration. Don't we want to preserve for ourselves, the legislative branch, the authority to write law? Or are we going to take a massive menu of FDA regs and say they are deemed to be law, although a court said part of them is unconstitutional. I don't think we should do that. I will save the FDA section for another comment and another time.

Now I am talking primarily about the financial impact of this bill. Let's work on a bill that will do a couple of things. Let s work on a bill that will try to educate youngsters that using drugs or using tobacco is a very serious problem. Let's try to reverse this trend that happened, frankly, in the last 6 years, during the Clinton administration, where marijuana use doubled among high school seniors, where tobacco use is up 35 percent among high school seniors. Let's try to reverse that through some public education. Let's try to get some workable restrictions that are constitutional. Let's try to put some responsibility back on young people. Let's try to maybe give the States the encouragement to enforce the law.

It is against the law in every State in the Nation for people under the age of 18 to smoke. So if they enforce the law, we don't have this problem. Now, maybe they are not enforcing the law. But certainly this little operation we have here where we are going to have the Federal Government spend $200 million a year to go around and have all these people inspecting to see if the convenience stores are checking IDs up to people age 27 is absurd. That is not going to work. It will build resentment. We need to say, States, what can you do to enforce the law? Maybe all the enforcement should go not to just the person selling the tobacco product. I am all for the States, if they find somebody selling tobacco or alcohol, frankly, to that minor, there should be significant penalties. That is the reason the laws are on the book. They should enforce the law. The penalties should not be just on the person selling but on the person buying or the person consuming. There are laws if you are driving under the influence, you get a DUI, they can take your license away. Maybe we should have restrictions and penalties on the consumer if they are breaking the tobacco consumption laws. Maybe it would be a financial penalty, maybe it would be that they have to do community service. Maybe they have to clean up a park. Give the States some flexibility to put some penalties on the consumer.

One of the reasons I didn't smoke is because I had a football coach who said, you smoke, you are out of here. Everybody else in our group understood that there was a penalty, there would be a price to be paid. So let's put it back on the individual. Let's turn it around. We can do some things like that.

What I see here is a massive effort to conceal, disguise, slide in under the radar screen, a very big tax price increase. And the way it is done is going to have minimal impact on reducing consumption among teenagers because we slide it in stealthily. It starts at 65 cents and over 5 years it is $1.10, according to this nonsense. Are we going to do it so gradually there is no sticker shock, so there won't be any impact anyway? The Finance Committee said, if you are going to increase the tax, put it up front, that, to me, is at least more honest. Do a tax, do away with the nonsense of hundreds of billions of dollars in industry payments. The tax is 24 cents now, so it's going to 39 cents. If Congress has the votes to do it, make it another dollar, add it on, vote on it. I probably won't vote for it. But do it honestly. The way we have here is so misleading and deceptive.

Instead we are going to talk about volume reductions, and we are going to talk about inflation adjustment and about these payments, and I am going to bring up the point that some companies don't have to pay. If smokeless companies produce less than 1 percent, they are exempt. So what are we going to do? We are going to put penalties, big assessments on some companies; but a new startup company doesn't have to pay this $1.10 assessment. That is a big advantage. I have a feeling that this bill is going to cause new companies to crop up all over the place.

I think the arguments made by the Senator from Utah and others about having a black market are very real. These commodities aren't that hard to smuggle or hide. I think if you put in this kind of incentive, you will have the same thing happen as it did in Canada and in other countries in Europe. You are going to find a lot of contraband, a lot of hidden stuff, and people smuggling tobacco like they used to be smuggling liquor. There is a lot of money to be made in the process. If they are smuggling tobacco tax free, there is money to be made. And there is money to be made in drugs. Smuggling under this bill is illegal. But the financial rewards will be very lucrative. If a person figures out the value of a truckload of cigarettes, you will realize that there is a real incentive if a person can get around the law and paying these taxes. The taxes are going to be greater, certainly, than the product.

I stopped in a gas station last weekend just to see what tobacco prices were. I didn't know; I don't buy tobacco. There were some cigarettes selling for $1.24 a pack, and another for $1.84, and another for $2.02. People say most of them are about $2. The more popular brands were the higher-priced ones, closer to $2. That is with the tobacco tax of 24 cents. If it goes up another 15 cents—this bill purports to take it up to $1.10, and that is without the look-back penalties. If you add that back in, you are looking at probably close to a $2-per-pack tax that is in this bill. So taking a product right now that sells from $1.24 to $2, you are going to add $1.50 to $2 in taxes very shortly on consumers. Is that going to be an incentive for people to smuggle cigarettes and get around the law? I believe it is. Certainly, there is incentive.

I hope they won't be successful. I don't want to set up a black market or encourage that type of activity, but I am afraid we will be doing it.

Finally, Mr. President, let me just say that I am disgusted about the procedure. I don't say that very often. I am part of the leadership, but I am disgusted by the fact that you have one committee, the Commerce Committee, writing the finance portion, writing the agriculture portion, and they didn't do a very good job. I am disgusted by the fact that the bill changed and the administration rewrote the bill over the weekend. They didn't consult the Commerce Committee, or the Finance Committee, or the committees of jurisdiction dealing with welfare, child care, the committees that wrote those laws, people that had the staff and the experts who knew what they were talking about. The administration put in a lot of their wish lists. I am disgusted by the fact that we would set up a whole new trust fund and say it is limited to $1.10 tax, when it is not.

Let's be honest with people. This is not the way to pass legislation. The Commerce Committee is not a tax-writing committee. They did a crummy job. I am disgusted. The tax on one can of Skoal will be one level, and on a competitor it would be 30 percent less. I am disgusted by the fact that one cigarette company is not going to have the excise tax that another cigarette company is going to have. Wait a minute, this is a national excise tax, but some companies don't have to pay it and some companies do. That is not the way you do business. I don't care if you are small or large. Excise taxes are supposed to be across the board. They didn't do that.

I am also disgusted by the fact that we would end up passing a bill to allow trial attorneys to make $100 billion over the life of this bill—probably $4 billion a year over the course of this bill. That bothers me a lot. That reminds me of what motivates this bill and it reminds me of the movie ''Jerry McGuire,'' where someone is screaming, ''Show me the money.'' That is what is driving this thing. It is not just about curbing teenage smoking. That is a great public relations campaign, and I will stand with anybody to try to curb teenage smoking and drug use. I emphasize ''drug use,'' because there is silence in this bill about that. We are not going to pass a bill, if I have anything to do with it, unless we have a significant effort to combat not just cigarettes but also marijuana and other illegal drugs that are much more hazardous, dangerous, and deadly.

I think this bill needs a lot of work. My guess is that it is probably not fixable with just a few amendments. I don't think we should be in a real rush to pass it. I have spent the last three nights staying up past 1 o'clock reading this bill, trying to understand how it works. I still have a lot to learn about this bill. Before we pass the biggest tax increase, the biggest spending program considered by Congress in years, I think we ought to know a little bit more about it. So I urge colleagues to do their homework, consider serious amendments, not frivolous amendments to string this bill out for a long time, but to make it better.

We are legislators. We are trying to pass law. My opinion is that this is a bad bill that needs to be improved significantly before we let it become law. I will reiterate my statement that I will work with any colleague, Democrat or Republican, to try to fashion a bill that will reduce teenage consumption of drugs and tobacco. But I don't think we have to spend hundreds of billions of dollars to do it. I don't think we have to turn over massive amounts of power to bureaucrats to do it. So I look forward to working with my colleagues to try to make that happen in the next few weeks as we consider this legislation.

Mr. President, I yield the floor and 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. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I was seeking to ask the Senator from Oklahoma some questions about the numbers he was displaying about the revenue generated by this bill, because the numbers he was displaying are not the official forecasts by the Joint Tax Committee of what this bill will raise. His numbers that he was displaying here are much higher than the numbers that are in the official forecast. Generally, when we debate a bill on the floor of the Senate, we debate based on common numbers. We debate based on the official forecasts. The Senator from Oklahoma has chosen not to do that. He has chosen to take other numbers that are much higher and different. The major difference between those numbers is that the bill calls for a volume adjustment that is not contained in the Senator's figures.

The volume adjustment appears very clearly in the bill at page 189, No. 2, ''Volume Adjustment.'' I will not go through the technical details. But the volume adjustment provides for, if volumes of cigarettes consumed declined because of an increase in price, the price increase will be adjusted downward. The numbers of the Senator from Oklahoma do not contain that volume adjustment. The fact is both Joint Tax and the Congressional Budget Office assume there will be a reduction in volume of about one-third, and any volume reduction beyond a 40-percent volume reduction will result in a lowering of the price increase.

Again, the Senator's numbers did not include those figures. The numbers he was using are not the official forecasts for this bill. They are at great variance from what has been provided by the Senator and are the official forecasts of what this bill will raise made by the Joint Tax Committee.

I want to point that out because I think it is important to set the Record straight.

At this point in the record, I ask unanimous consent to have printed in the RECORD the Joint Tax Committee's estimates of what this bill will raise.

I also would like to enter into the RECORD at this point page 189 from the bill that points out the volume adjustment provisions which the Senator from Oklahoma neglected to advise the Senate are not contained in the numbers which he displayed for our colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 19, 1998.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: This letter is in response to your request for a revenue estimate of the manager's amendment to S. 1415 offered May 18, 1998.

In order to complete the estimate of the manager's amendment to S. 1415, we assumed that the base payment for years beginning in 2003 and thereafter is $23.6 billion before the volume and inflation adjustments.

Our estimate presents the net revenue effects of the manager's amendment to S. 1415. These net amounts differ from the gross payments required under the manager's amendment for several reasons. First, the general tobacco industry payments are converted to fiscal year payments. Second, the general tobacco industry payments are reduced by an income and payroll tax offset in the same way that net receipts from an excise tax are calculated. Third, the higher price for tobacco products resulting from the proposal reduces net receipts generated from present-law tobacco excise taxes because of reduced tobacco consumption. Finally, because the proposal is expected to supercede most of the State-by-State settlements that are implicit in the Congressional Budget Office baseline receipts forecast, much of the negative indirect effect of the anticipated State-by-State settlements on receipts is reversed.

We estimate that the manager's amendment to S. 1415 will have the following effects on Federal fiscal year budget receipts:

[In billions of dollars]

	Fiscal year—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07
1. General industry payments	15.4	11.0	12.5	12.7	13.2	13.8	14.3	14.8	15.4	51.5	71.5
2. Look-back assessment [1]	.....	.....	.....	.....	.....	1.0	0.6	4.0	3.1	.....	8.7

[In billions of dollars]

	Fiscal year—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07
3. Total of S. 1415 as amended	15.4	11.0	12.5	12.7	13.2	14.8	14.9	18.8	18.5	51.5	80.2
General industry payments per pack[2]	$0.76	$0.89	$1.06	$1.11	$1.24	$1.28	$1.32	$1.36	$1.40	.....	.....

[1] This net revenue reflects the effect of reduced excise tax receipts because of the assumption that the penalty excise tax payments are passed through in the price of tobacco products.
[2] Presented on a calendar year basis and without regard to look-back assessments.

Note: Details may not add to totals due to rounding.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

LINDY L. PAULL.

VOLUME ADJUSTMENT PROVISION

(2) VOLUME ADJUSTMENT.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term ''base volume'' means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term ''actual volume'' means the number of adjusted units as defined in section 402(d)(3)(A).

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, my colleague is making my argument for me.

In the first place, I am consistent. The administration, and Senator MCCAIN, said this bill would only cost $516 billion. Guess what? They don't make a volume adjustment on that estimate. Instead, they used constant 1999 dollars.

I have a letter from OMB that was trying to refute my argument, but basically they made it for me. OMB says inflated nominal dollar industry payments would equal $755 billion over 25 years. That is without the look-back penalty. By way of comparison, the equivalent estimate which the State attorneys general are proposing is $539 billion in nominal dollars. Like the private analysis, these estimates do not included volume adjustments. There is a reason they do not include volume adjustments. It is because it is hard to figure.

My point is that everybody here has heard the attorneys general group discussing the $368 billion figure that the administration signed off on. When they use the $368 billion, they do not take into account any volume adjustment. No one knows what the volume adjustment is going to be.

I will show my colleague a table from the Joint Tax Committee. I have been trying to figure out what these industry payments really are. How much of a tax increase is it? I have hounded Joint Tax for an estimate, and we have a letter and report from them dated yesterday. If this is not the one the Senator printed in the RECORD, I will insert it in the RECORD at the conclusion of my statement.

In the first place, they show the total revenues on the top line which, frankly, are consistent with the revenues that I showed on my chart. It is shown in calendar years, according to the bill on certain pages which provided for a payment of $24.4 billion, $15.4 billion, $17.7 billion, and so on.

Mr. MCCAIN. Mr. President, will the Senator yield for an administrative question, not a substantive one?

Mr. NICKLES. The Senator is throwing me off track.

Mr. MCCAIN. About the schedule.

Mr. NICKLES. I will be finished shortly.

Mr. MCCAIN. I thank the Senator.

Mr. NICKLES. I want to make sure people understand. I am not sure my colleague from Arizona knows what was done.

Mr. MCCAIN. I was not trying to interfere.

Mr. NICKLES. I understand; no problem. I bragged on the Senator before.

But I want to talk a little bit about the volume adjustment. I am very familiar with the volume adjustment because I have been trying to figure out what they are doing with it.

Also the Senator from North Dakota tried to repudiate my number of $755 billion. I am telling you that is the same number OMB came up with, and they didn't volume adjust it, and they didn't volume adjust the $368 billion.

I want people to know that I am consistent with what was done before.

In addition to inflation, the bill that was reported out of the Commerce Committee was to have a volume adjustment. If you sell less, there would be less tax. So you have some reduction. But they do not know exactly what that would be.

What was rewritten by the administration on Sunday or Monday is that there will be a volume adjustment if and when volume gets less than 80 percent of last year's level. That is a big change.

Under the bill as originally written, the volume adjustments don't kick in until the sixth year. Then you would have some reduction. They say you will get a reduction if and when you reduce consumption below 80 percent down here.

My point is there is no volume reduction for the first several years, and after that you are guessing. But the volume reduction must be lower than 80 percent. To get any volume reduction whatsoever, you must reduce consumption total by more than 20 percent. It used to be that you only had to reduce it 1 percent to get a 1-percent reduction. Now, you have to reduce 21 percent to get a 1-percent reduction. It may be that they will never get a volume reduction as a result of that change. I don't know.

But my point being is that, one, we are being consistent in our analysis of the cost of the bill, as it pertains to OMB, as it pertains to the Attorney General.

I want people to know what the facts are. The fact is the bill says it has a CPI adjustment. The facts are that OMB said they used constant 1999 dollars to get $516 billion. I read it in the committee report. This is absurd. It said total payments shall not exceed $516 billion. That is not in the bill. It doesn't fit. It doesn't work.

If you use nominal dollars, as we use in every other budget projection, and you put a 3-percent kicker in, that is how you get up to $755 billion.

Then you can add the look-back assessment. One could say there will not be a look-back. Why was all this effort to add a look-back. I heard colleagues say on the floor that look-back is almost maybe 50 cents. I will tell you the look-back is a disaster. If anybody wants to raise tobacco prices another 50 cents, do it honestly. The look-back rests on the Secretary of Treasury taking a poll and saying, ''Did we meet our objectives? We want to reduce consumption by teenagers by a certain percentage. Did we make it? If we didn't make it, what happens then?'' If they miss it by a certain percent, there is a fine. If they miss it by a bigger percent, there is a bigger fine. That raises about $4 billion.

Then, they go to brand specific look-back assessments. This is absurd. They say they are going to, in the same poll, find out whether these youngsters buy X, Y, or Z brand. And if they smoke that brand, and that brand does not meet that target, there is a $1,000 penalty. For every teenager they identify that smoked more cigarettes in that particular percentage, then there is a $1,000 fine.

That is not really workable, and it needs to be fixed. It needs to be cleaned up. It needs to be deleted and then raise the tax whatever you want to raise it. Be honest. Tell people we want to raise taxes. The first year it is going to a dollar a pack. Just raise it a dollar a pack. Say next year, instead of 24 cents, it is going to be $1.24. Just do it. That would be the honest way. This thing is more than deceptive and, in my opinion, probably won't work.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I am just going to repeat the point. I am

sorry to have set off my colleague from Oklahoma.

The simple fact is the numbers he has displayed here are not the official forecast for what this bill will raise. They just are not. They are dramatically higher than the official forecast before this body by the Joint Tax Committee, which is the forecasting service we all use. And so the numbers that he has presented to our colleagues, to anybody else who is listening, are numbers that are not the official forecast of what this bill is going to raise.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. No. I asked repeatedly for the Senator to yield to me. He repeatedly refused, so I refuse.

The point is very simple. The reason his numbers are at dramatic variance with the official estimate of what this bill that is before this body will raise is because he takes no account of the volume adjustment that is contained clearly in the bill. And that volume adjustment calls for lower payments from the companies as the use of the product falls. Now, any economist and anybody with common sense understands that as you increase the price of something, you sell less of it. That is just basic. And so the legislation acknowledges that economic fact of life.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. I ask unanimous consent to have printed in the RECORD a Joint Tax report.

Now, first I want to reply to my colleague. This joint tax report, which I have been asking for every day, is dated May 20, yesterday. They didn't have this information before. No one has had a chart on what they thought the industry adjustment would be, but let me just give the facts according to Joint Tax if you worship at that altar.

In the first place, they say the figures I have on the gross industry payments, are accurate. They have the exact same figures that I have. They happen to be accurate. They estimate these for the first time. We don't have a CBO study. We don't have a GAO study. We don't have anything from the administration showing what they think the volume adjustment would be. No one has had volume adjustments in any of their charts, because it is a guess. But let me just repeat what the Joint Tax Committee has said. They say the gross figures that I have are identical. They say the total tax on consumers over the first 5 years is $102 billion. They say volume adjustment is $8.7 billion. So the net over the 5 years is $93.4 billion.

So this massive change in numbers that you are talking about is not that massive. The total amount of tax on tobacco consumers, according to joint tax, over five years is $93.4 billion. That is pretty significant.

So, Mr. President, I just got this yesterday, or maybe we got it today. We got it today. And I am happy to have it submitted for the RECORD. I am happy to debate facts all day long, and I want to debate facts.

I see my colleague from Vermont who supports, I believe, a straight excise tax. I just think you ought to do a tax. I think this scheme of having industry payments and having look-backs and surveys and polls, and those polls are deemed to be accurate—that is absurd, but that is what is in this bill.

You have an automatic volume reduction if you have an honest excise tax. Isn't that the truth? If you have an honest excise tax of $1.10 and there is less cigarettes sold, there will be less money going in to the trust fund. It is self-fulfilling if you do it right.

This bill does it wrong. This bill says we are going to have this formula for this money to go in, and it is indexed and there is additional formulas if we determine a certain number of people are using the wrong product. And so we will put that in. And then, oh, yes, we will reduce it by volume if we determine that.

Why not just have a tax per pack, and if there is less volume, there will be less money going into the pot. And no one will have to argue about volume adjustment that will be determined by the Secretary to send to these various companies, and, oh, he is going to forget to send that assessment to some companies.

That doesn't make sense. If somebody makes a different size of Skoal or a different size of snuff, he has a little different tax. You should put the same tax on every pack of cigarettes, the same tax on every brand of moist tobacco or every brand of smokeless tobacco and just do it. And then you have an automatic volume adjustment.

Mr. LEAHY. Mr. President, will the Senator from Oklahoma yield?

Mr. NICKLES. Sure.

Mr. LEAHY. I won't take but a couple minutes.

Mr. NICKLES. I did ask unanimous consent to print this chart in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

RECONCILIATION OF GENERAL TOBACCO INDUSTRY PAYMENTS UNDER S. 1415, AS AMENDED, AND NET FEDERAL REVENUE EFFECT OF SUCH PAYMENTS ESTIMATED BY THE JOINT COMMITTEE ON TAXATION ON MAY 19, 1998, BEFORE THE LOOK-BACK PROVISIONS

[In billions of dollars]

Provision	Fiscal year—											
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2003	1998–2007
I. Calendar Years:												
1. Federal revenues from S. 1415 general tobacco industry payments as adjusted for inflation (by calendar years as in S. 1415)	10.0	14.4	15.4	17.7	21.0	23.6	24.3	25.0	25.8	26.6	102.1	203.8
2. Calendar year volume adjustment	.....	.....	.....	.....	−3.6	−5.0	−5.4	−5.8	−6.2	−6.6	−8.7	−32.7
3. Calendar year payments	10.0	14.4	15.4	17.7	17.4	18.6	18.9	19.2	19.6	20.0	93.4	171.1
II. Fiscal years:												
1. Adjustments:												
a. Convert Federal revenues from S. 1415 general tobacco industry payments to Federal fiscal years	.....	20.8	15.2	17.1	17.5	18.3	18.8	19.1	19.5	19.9	88.9	166.2
b. Change in net revenues from Federal income and payroll taxes (because of the impact of S. 1415 general tobacco industry payments on aggregate taxable income)	.....	−5.2	−3.8	−4.3	−4.4	−4.6	−4.7	−4.8	−4.9	−5.0	−22.3	−41.7
c. Change in net revenues from present-law Federal tobacco excise taxes (because of price increases from S. 1415 general tobacco industry payments)	.....	−0.8	−1.2	−1.5	−1.9	−2.1	−2.2	−2.2	−2.2	−2.2	−7.5	−16.3
d. Net revenue effect of replacing State by State tobacco settlements with S. 1415 payments	.....	0.5	0.9	1.1	1.4	1.6	1.9	2.2	2.4	2.7	5.5	14.7
2. Net Federal revenues from S. 1415 general tobacco industry payments (JCT May 19, 1998 estimate)	.....	15.4	11.0	12.5	12.7	13.2	13.8	14.3	14.8	15.4	64.6	122.9

Note: Details may not add to totals due to rounding.

Mr. LEAHY. Mr. President, I am sure my friend from Oklahoma will allow me to describe what my position will be on it, and I appreciate him stating it. And I do not want to get into the debate he and the Senator from North Dakota have been having. I was here to support, as I have, the amendment of the distinguished Senator from New Hampshire, Mr. GREGG. And what I have before me is an amendment that I think makes a great deal of sense.

I said yesterday that nobody is running up to me in the streets of Vermont and saying, ''Oh, please, whatever you do, be sure and give a lot of immunity to the poor tobacco companies.'' Nobody in Vermont is saying, ''Whatever you do, make sure first and foremost you protect the tobacco companies.''

They have made it very clear that they are concerned with protecting teenagers, concerned with protecting their children, concerned with getting back some of the costs that we in Vermont have spent on health care for those who have suffered from addiction to cigarettes.

But I ask, Mr. President, at the conclusion of my statement that I be allowed to put in the RECORD a letter from C. Everett Koop and David Kessler to Senator GREGG and myself dated May 20, 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. LEAHY. I just mention this about it. The letter very forcefully, very eloquently makes the case why the interests of public health are not served by giving big tobacco further special legal protection. They write:

> Special legal protections for tobacco are unfair to patients and their families.

They write further:

> Special legal protections for tobacco are bad for public health, especially children's health.

They write:

> Special legal protections for tobacco are undeserved.

And they write:

> If passed, the special legal protections in the Commerce Committee bill would be the biggest corporate giveaway in history.

And then they say:

> For the sake of public health and children's health, for the sake of the people who are already sick and for those who will become sick, and for the sake of holding the industry accountable for its actions, we urge you to strip the special legal protections from the bill.

I agree with Dr. Koop. I agree with Dr. Kessler. I agree that first and foremost we should protect the people of this country. We should protect the health of the people of this country. We should protect the children of this country. And we should not be giving special limits on legal liability to big tobacco.

I disagree with the position of the White House in trying to allow special legal protection and special immunity for the tobacco companies.

Yesterday, the President wrote to the Senate leaders that:

> If a cap that doesn't prevent anybody from suing the companies and getting whatever damages a jury awards will get tobacco companies to stop marketing cigarettes to kids, then it is well worth it for the American people.

Everybody agrees with that. What doesn't come out in the President's letter is this bill does have provisions that will prevent some parties from suing the tobacco industry. It does cap the total annual payments for the tobacco industry. The liability cap may very well affect the payment of future jury awards to tobacco victims.

So, I disagree with the White House and I disagree with those on both sides of the aisle who would limit some of the liability of the tobacco companies. If the tobacco companies hadn't faced unlimited liability for their actions, we would not even be here today. If the tobacco companies hadn't known that they could be sued, and sued successfully, they never would have admitted some of the things that have now come out. If the tobacco companies had not faced this, we never would have found out the years that they had lied. We never would have found out the internal memos where they were targeting 14-year-olds. We never would have found out even such things as their efforts to make cigarette placements in all kinds of movies, including, of all things, the ''Muppet Movie.'' These are things that we have found out only because they face that liability.

I concur with the distinguished Senator from New Hampshire. I am opposed to limiting liability. With that, I yield the floor.

EXHIBIT 1

ADVISORY COMMITTEE ON TOBACCO POLICY AND PUBLIC HEALTH,
May 20, 1998.

DEAR SENATOR GREGG AND SENATOR LEAHY: We are writing to endorse and support the Gregg-Leahy amendment to S. 1415 to eliminate all special liability protections for tobacco companies. We wish you success and would urge your colleagues to join with you in this effort.

Special legal protections for tobacco are unfair to patients and their families.

Millions of Americans are now sick with tobacco-related illnesses. Millions more will become sick in the future. These are people who started to smoke at a time when the tobacco industry lied about its products, hid scientific studies, and shredded documents. Most of these people started to smoke when they were children whom the industry targeted for special marketing. To protect the industry now would leave many of these patients, their families, and their survivors without remedy.

Special legal protections for tobacco are bad for public health, especially children's health.

Court oversight in the historic Minnesota suit led to the disclosure of thousands of documents about the addictiveness of nicotine and about the industry's plans to market to children. Other legal actions have resulted in consent decrees that will cut back on Big Tobacco's seduction of new young smokers. Under the Commerce Committee bill, these state and local suits would be impossible.

Special legal protections for tobacco are undeserved.

The tobacco industry has proven itself to be an irresponsible corporate citizen. Extending protection to this industry would be to subsidize and condone these activities. No other industry, no matter how valuable to the Nation, has such protections. We should not extend them to an industry whose product that serves only to kill Americans prematurely.

The Senate should not provide special legal protections for tobacco.

If an American jury finds tobacco companies owe damages, the Senate should not overturn that verdict.

If the most skilled lawyers that money can buy cannot get the tobacco industry out of court, the Senate should not become its defenders.

If passed, the special protections contained in the Commerce Committee bill would be the biggest corporate giveaway in history.

For the sake of public health and children's health, for the sake of the people who are already sick and those who will become sick, and for the sake of holding the industry accountable for its actions, we urge you to strip the special legal protections from the bill.

Sincerely,

C. EVERETT KOOP, M.D.
DAVID A. KESSLER, M.D.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I had printed in the RECORD this Joint Tax table. I also want to clarify a statement. I said, all of this money would be going into the trust fund. That was the way it was designed as it passed the Commerce Committee initially. The Commerce Committee now says the net revenues from this large payment goes into the trust fund. This chart says ''Industry Payments.'' That is not correct. It is consumers' payments. Consumers are going to be paying every dime of this tax.

Granted, they have a section in here that says industry, companies, you pay this amount. But they also have a section in here, on page 189, that says the tobacco companies must pass the cost on to consumers.

> . . . an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer. . . .

In other words, consumers, you have to pay every dime of this, every single dime. This is not paid for by tobacco companies. This is not a tax on tobacco companies. This is a tax on consumers. The way to solve this ambiguity on volume adjustments is just say: ''Here is the tax per pack, or per can or whatever it is. And then, if volume goes down, there is less money.'' We do not do that in this bill.

I just mention, too, there is something really phony going on here. Joint Tax—and maybe I am not being as respectful to Joint Tax as I should be. But the way they scored this thing, as I know my colleague knows, they take 25 percent of the revenue from excise taxes and assume that is lost in transmission. So, if you raise $1 in tax, they assume only 75 cents gets to where you are trying to send it. That would usually be correct. If you were going to increase excise taxes on a farmer, he is going to have less money to spend on other products, it is going to slow the economy, so there would be some decline.

This assumption, I don't think, is applicable to these tobacco payments. Maybe the government would lose some percentage, but I don't think it would be as much as 25 percent. And the reason is the companies, by this language, are forced, mandated, to pass on every dime of this payment. I cannot think of any other business—if Nickles Machine Corporation I used to run, if we had an increase in excise tax, granted that might be in our cost of manufacturer. I might try to pass it on in higher prices to consumers and so on. Maybe I would be successful and maybe I wouldn't. Maybe I'd have to eat part of it.

We have language in here saying we don't want tobacco companies to pay a dime of this. We want consumers to pay every single dime of this part. Not the look-back. The look-back, they say, is not deductible, so maybe they are supposed to chew on part of that. But the big part of it is passed on to consumers.

So I want to make sure I was accurate. I think I said this money goes into the trust fund. That was not the

case. The language now says the net revenues go into the trust fund. And the net amount is really determined by the Secretary of the Treasury. He has a great deal of flexibility, I am afraid, to say, ''Oh, well, we think, since this is all passed through, the gross amount could be the net amount.'' He could say that this since it is all passed through.

Maybe I am getting too technical. I just want people to know, when you see estimates from Joint Tax that they agree that this is a $102 billion tax increase over the first 5 years. The look-backs are a question mark. Who knows? But evidently somebody thinks it is real money or they wouldn't be trying to jack up the look-back penalties.

And then the other variable is the volume adjustment, and no one has had scoring on volume adjustments until today. These are purely assumptions. I put those into the RECORD. So, if they were accurate, consumers will pay $102 billion, adjusted by 8.7, so $93.4 billion over the 5 years. So it reduces it somewhat.

For that to happen, you have to assume you are going to have volume less than 80 percent of 1997 over that period of time. Who knows? I don't know. But I always want to be factually correct. I may disagree with the colleagues on substance or philosophy or motives or whatever, but I want to be factually correct. And these numbers, I believe, are factually correct. The volume adjustment is speculative and now Joint Tax says it is minus $8 billion. Great. I do not agree with them that there would be such a large loss of revenue from gross to net, because of the language that says 100 percent of it shall be passed on to consumers. This figure, this payment by consumers, is accurate. Consumers, not tobacco companies, will pay the cost of this bill. I think it is too high.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. 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. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Oklahoma for a thorough exposition of the bill. He obviously has spent a great deal of time studying it. I, obviously, am not in agreement with a number of his conclusions, but this kind of exposition has been very educational and helpful to the entire Senate. I thank the Senator from Oklahoma, not only for his in-depth knowledge of the legislation but also the comity which has accompanied his and my relationship and difference of opinion on this issue.

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. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. KERRY. Mr. President, I was not able to be here at the exact moment that the Senator from Vermont was speaking. But I do understand that the Senator suggested that a rationale for his cosponsorship of the Gregg amendment is that he opposes ''a lot of immunity for the tobacco companies,'' and opposes the ''protections'' that are contained in the Commerce Committee.

I will try to emphasize again, because I think we are really either talking past each other here or there is just not an awareness of what is in the bill—there are no protections for the tobacco companies. There is no protection. None. Zero protection. There is no such thing as a lot of immunity in this bill. There is no immunity in this bill. None. Zero immunity.

The tobacco companies will be liable to lawsuits under any circumstances. Whether they play in the tent or they are out of the tent, they are liable for lawsuits. The only distinction here is, if those lawsuits are successful, how much will they be required to pay out in 1 year? That is the only thing that is contained here that is some kind of a limitation.

Instead of being required conceivably to pay out $20 billion in 1 year and go bankrupt so you have no payments to kids, there is a limitation of $8 billion. So you can choose between the system that allows you to conceivably make them go bankrupt in the court system as, I might add, 70-plus percent of the asbestos companies did. We have lines of people who are suing today on asbestos who will never collect because the companies went bankrupt. In fact, there are people who want them to be able to collect under the tobacco settlement because there is a lot of confusion between those diseases that are asbestos-induced versus tobacco-related.

Let's get the terms of this debate correct. We are not talking about immunity; we are talking about whether or not, in exchange for companies giving up their constitutional rights to advertise, in exchange for companies abiding by the look-back provisions, in exchange for companies agreeing not to sue in court, in exchange for companies agreeing to be part of the document depository, in exchange for companies being part of the effort to get our kids not to smoke, we are going to tell them in any one year, ''You're liability is only going to be $8 billion.''

If the court finds that you are liable for $20 billion and there is no finding of liability next year in the court, they are going to have to pay the difference. The $8 billion from the $20 billion means they are still going to have to come in and pay an additional $12 billion, and they will pay up to $8 billion in the next year.

This is rational, in my judgment, Mr. President, because if you don't do this, then you are voting for the status quo, which is a system that is not a system. You would be voting to say, ''OK, we've got this one little option here that invites the companies to come in and be part of the process, but we're going to strip that option away because we want to show how tough we are on the tobacco companies and we're just going to let the lawyers go sue for the next''—whatever, recognizing that, for the last 20 years, not one lawsuit has yet produced a dime for a plaintiff.

Obviously, circumstances have changed. We now have evidence that no plaintiff had in those past years. I understand that. As a lawyer, I would love to go to court with the current level of documentation, and clearly, with the document depository, it will be a lot easier for a plaintiff to go into court and get a judgment. But you are not going to get that judgment in any sense of order. You are going to have what we call a rush to the bar: First lawyers come, first served. The first people to get the biggest judgments will be the first people paid off.

All these people coming in here and talking about the kids and talking about how they want to have some kind of system to get the kids to stop smoking will have abandoned those kids, because those kids are not going to benefit during those years of litigation. That is what we are talking about here. We are talking about whether or not we are going to have a rational approach to this or whether we are all going to feel good and say no liability.

I respect Dr. Koop and Dr. Kessler enormously. We wouldn't be where we are without them. There is no question about that. But I regret enormously that it is somehow their judgment that it is better off for the children to be in that position where we are just going to have these open-ended lawsuits without any incentive whatsoever to try to get the companies to become part of the process.

There is no guarantee they will. There is no guarantee that they will. We may well pass this legislation in its current form, and a lot of those companies will say, ''We still think it is too punitive. We don't want the look-back provisions. We're still going to challenge.'' This bill does not disadvantage us one iota with respect to that choice, because we have a two-part structure where, if they don't agree to participate in giving up their constitutional rights, in setting up the document depository, in being part of the look-back provision, then they can be sued under this bill in the very form that the Senator from New Hampshire is seeking. No loss, no setback, nothing.

The choice here is between whether you are going to go with the status quo

or you are going to hold out some hope that you are going to invite the tobacco companies to be part of a process of giving up what nobody will suggest under the law they could give up otherwise.

The Senator from Utah is one of our strongest experts on the law in the Senate, and he knows full well how the look-back provisions may be challenged. He knows full well how these constitutional rights cannot be given up except by consent. You can't restrict some of the advertising we seek to restrict unless the tobacco companies sign the protocol. Unless you are willing to say to them something that invites them in, they are not going to sign a protocol, and there is no guarantee they will sign it even if you say that.

So I think the choice for the U.S. Senate is very, very clear, and I hope colleagues will vote for common sense and not for the sense that the status quo is somehow going to serve the interests of the country.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank you. I rise to oppose this amendment. This amendment strikes the so-called ''immunity'' provisions of the floor vehicle.

First, let me say that there are no immunity provisions in the underlying bill. The traditional definition of the word ''immunity'' is: Being in a state ''free or exempt'' from disease or taxes or civil liability or the like. Under this definition, there is no immunity in the Commerce Committee bill or in the amendment that Senator FEINSTEIN and I have developed.

The tobacco companies are not exempt from anything. They will be and are accountable for their actions.

There are, however, in these bills limitations on liability procedures, but these should not be confused with immunity. Under the underlying bill, suits may still be brought. The tobacco companies could still face a multiplicity of suits for civil liability and possible criminal proceedings. This is not immunity by any stretch of the imagination. Indeed, when you are required to fork over a staggering $516 billion as the floor vehicle requires—which is really over $860 billion according to some estimates—you are not getting a free ride.

If this is really immunity, do you think a bipartisan group of 40 States' attorneys general and some of the leading plaintiffs' attorneys in this country who have been suing the tobacco industry for several years would have backed the June 20 settlement? Of course they wouldn't. It contained, justifiably, in my mind, limited liability provisions broader than the Commerce Committee bill, including a limitation on punitive damages for past bad behavior by the tobacco companies.

I am talking about some of the leading plaintiffs' lawyers in the country—men like Wendell Gauthier, Stan Chesley, John Climaco, Jim Parkinson, Ken Carter, John Coale, Bob Redfearn, and Don Hildry —I hate to leave any names out because there are literally dozens of them. I am talking about people who have pursued to the full limits of the law the asbestos industry, the Dow Chemical Bhopal disaster, the Dalkon Shield, and the breast implant manufacturers, and virtually every other plaintiffs' litigation that has taken place over the last 25 years.

And where would we be had these plaintiffs' lawyers not brought these suits? The States themselves are represented by very capable attorneys, attorneys general like Gail Norton of Colorado, Christine Gregoire of Washington, Jan Graham from my own home State of Utah, and Mike Moore of Mississippi, all of whom have worked very closely with me on this matter.

We are talking about top people here, tough-minded public servants. And the States also met the armies of litigators employed by the tobacco industry by contracting with their own legal experts on the part of the States.

Dick Scruggs from Mississippi has been in this from the start on behalf of Mississippi and other States. Professor Lawrence Tribe of Harvard has been hired by Massachusetts and other States.

So we are not talking about a bunch of pushovers here who will lay down in front of the big tobacco bulldozer. These top lawyers all knew they were fighting an uphill battle. And to date, there has never been a penny paid to a litigant in this country due to a jury award. In fact, there has only been one jury award to plaintiffs in the history of the country, I believe for $750,000, and it will be 10 years before that is paid, if it is paid at all.

I have been following tobacco litigation since my early days as a trial lawyer in Pittsburgh, PA, when I watched one of the greatest trial lawyers in the country, Jimmy McCardle of the law firm of McArdle, Harrington, Feeney, and McLaughlin on Prichard v. Liggett & Myers. It was a terrific battle publicized all over the world, as a matter of fact. And they lost because it is so difficult to win in these battles.

But nevertheless, once we establish this document repository, it should be easier to prove cases that can go to jury and, I think, increase the chances of jury awards. These top lawyers all knew that this is uphill. I have to say, from the time that Jimmy McArdle, that great attorney, lost, everybody else has lost since him, except for the one Florida case that is on appeal.

Why are these cases lost? Many legal observers have noted that American juries are very reluctant to award damages in situations where the complaining parties can be viewed as assuming a known risk. So we all have to recognize that the prevailing legal landscape has favored the companies for a long time.

The 40 State attorneys general and dozens of expert lawyers, like the Castano group, did what rational people do every day in litigation in this country. They proposed to resolve their claims through a settlement. And they did achieve a resolution. But they have to have a bill passed through this Congress that is similar to what they negotiated and brings the tobacco companies back on board, albeit screaming, kicking, and shouting all the way.

They brought us a proposal that settled the suits and involved massive payments and a brand new regulatory regime in return for some limited liability restrictions. These restrictions will provide an orderly mechanism for compensation payoffs and will provide the companies with financial certainty.

That is exactly what this legislation should do. The bill we adopt should help resolve these claims and do so in a manner that is in the best interests of the health of the American people.

So not only do I oppose amendments like these, but I think the most effective way to go about this legislation is to devise liability provisions that address the concerns of plaintiffs in a reasonable fashion.

When we consider this legislation, let us keep in mind that some 40 State attorneys general and some of the leading plaintiffs' lawyers in this country have already reached judgment that a fair and rational way to proceed, the best way to proceed, is to effectuate a national settlement of these claims.

Every day in our country lawsuits are settled by negotiating mutually agreeable resolutions that usually involve payments of money and with agreements to change certain behaviors. And that is exactly the theory behind the June 20 proposal and, I might add, the Hatch-Feinstein substitute amendment that we probably will bring up before this is over. So in one sense the June 20 proposal and our substitute amendment are typical.

Of course, what makes this June 20 proposal and our bill atypical is this approach represents the largest settlement proposal in the history of the world; requires the largest payment of punitive damages in the history of the world; contains unprecedented regulatory authority over tobacco products; and, provides for a broad array of public health programs, including public education, tobacco cessation, and counter advertising, that is, if the tobacco companies come back on board.

If they do not come back on board, many important restrictions are not going to happen and we will be immersed and mired in litigation for a long time, maybe 10 years. And then the bill on the floor, if that is the way it comes out, will likely fail dramatically as an unconstitutional piece of legislation.

But if we adopt this settlement approach and can drag the companies back on board, we can achieve advertising and look-back penalties far beyond what the Constitution would allow because we would have a consent decrees

and protocol contracts where the companies would voluntarily agree to waive certain rights. But to get them to do that, there has to be some incentive for them to do that, and that is some reasonable limited liability provisions.

Immunity has nothing to do with it. It is limited liability we are talking about here.

To just give one example, we currently have an FDA rule that is tied up in the courts. This rule bans tobacco billboard advertising within 1,000 feet from public schools.

The Judiciary Committee heard first amendment experts like Floyd Abrams tell us this rule cannot withstand constitutional scrutiny. But if we adopt a bill that contains liability provisions based on the June 20th settlement model that can bring back the companies, kicking and screaming all the way, we can achieve a total ban on all outdoor billboards.

This bill on the floor will not do that. But I believe before this battle is finished the final bill will accomplish that, or we just will not achieve as much public health protections as we can here.

So while the FDA rule wends its way through courts—and I think there is good reason to believe it will fail—today in Florida and Mississippi, through the settlement limited liability approach, there are no tobacco billboards in those States; and soon there will be no billboards in Minnesota because the companies have agreed to stop this advertising. Without reasonable liability limitations, there is no reason for them to just cave in and agree on these matters.

So there are good public policy reasons to oppose this so-called immunity amendment and favor legislation that, like mine, contains the liability limits modeled on the June 20 agreement.

Now, while I respect Drs. Koop and Kessler—I had a lot to do with both of them obtaining their Federal appointments that vaulted them to such prominence—I respect them to a large degree when they are commenting on public health matters within their expertise, when it comes to matters touching on the civil litigation system, I have to rely on the judgment of experts in the field, including 40 State attorneys general and the leading plaintiffs' lawyers in this country. As you would not go to a doctor to fix your car, so you would not go to a doctor for a legal opinion.

I might also add that I have tried some of these cases, too, in the past, not tobacco cases but difficult, contentious litigation. And I think I do know what I am talking about. And I do believe that I would like to see Drs. Koop and Kessler limit themselves to their expertise and not try to intrude into matters that literally they do not fully understand. As a matter of fact, in many respects they are gumming up any possibility of getting all these public health moneys that will help us solve some of these problems.

To be fair, although I do not favor the underlying bill, I have to oppose this amendment. I appreciate our distinguished friend, the Senator from New Hampshire. There is no question he is thoughtful, very decent and a good Senator. I have a tremendous amount of respect for him. I just happen to disagree with him on this matter.

And to be fair, although I do not favor the underlying bill, I have to oppose this amendment as well. There is simply nothing in the bill that would prohibit an individual from bringing suit against tobacco companies. There is nothing in this bill that would even reduce the amount litigants can be awarded.

All that is in the bill is an $8 billion yearly cap on the amount of damages that have been awarded. If the awards amount to over $8 billion, the amount will be paid in succeeding years. So there is really no limitation on liability other than that $8 billion cap. And I have to tell you, that is not enough to get the companies back to the table or to get the companies back to voluntarily agreeing to have advertising restrictions and look-back provisions that work.

In testimony before the Judiciary Committee, while defending the liability provisions of the June 20 settlement—which were even justifiably broader than the cap in the floor vehicle—Laurence H. Tribe, Tyler Professor of Law, Harvard Law School, demonstrated that liability limitations provisions are legal, constitutional, and not unique. As to his constitutional argument, he correctly asserts that the 1978 Duke Power Supreme Court case, allows Congress to alter common law rights such as the granting of punitive damages, and the capping of damages.

He also pointed out that there are a slew of federal statutes that grant limited liability to different industries and entities. The proponents of this amendment who say that no industry has ever received some liability limitations are just wrong. One example of a federal liability limitation is contained in the Price Anderson Act, which places a $560 million cap on compensatory damages in suits against the nuclear industry. The purpose of this cap is to create an incentive for the development of nuclear energy.

Another example is the Federal Credit Union Act, which limits damages for lost profits and pain and suffering for losses resulting in the liquidation of federal credit unions. Other examples include the Black Lung benefits program, the National Swine Flu Immunization program, the National Vaccine program, and certain provisions of both the Federal Employers Liability Act and the Jones Act. That is just mentioning a few.

I wish that the liability provisions in the underlying bill mirrored the liability provisions in my bill—which is modeled on those in the freely-bargained for June 20 settlement. Without those liability provisions which were gained through tough negotiations between 40 state attorney generals and the leading trial lawyers and agreed to by the industry, the industry will not participate to the fullest extent possible in any tobacco bill program.

So I must oppose both this amendment and the underlying bill because I think that the bi-partisan group of 40 state attorneys general and the leading trial lawyers in this country got it right the first time.

I urge my colleagues to reject this amendment and reject the Commerce Committee bill.

What we should do is pass legislation that closely models the settlement proposal brought to us last year by the 40 state attorney generals and the leading plaintiffs' lawyers in this country.

Having said all that, let me just conclude with these thoughts: There is no doubt in my mind the only way this is ever going to work without 10 years of litigation—and 10 million more kids unnecessarily put at greater risk—and a decision by the courts that the bill that is currently being argued on the floor is unconstitutional, is to get back to as close to the attorneys general agreement as we can. Yes, we can add some money to that agreement. It can be higher than the $368.5 billion, but it should be a reasonable amount that gets the companies back on board.

There is no guarantee by anybody that the companies are going to come back on board, but I think there is a pretty good guarantee they won't come back on board under the financial and other requirements of this particular bill, or without the incentive of having some reasonable form of limited liability.

If we can't do these things in a fair and reasonable manner, then why in the world should the tobacco companies come back and voluntarily agree to pay what really involves hundreds of billions of dollars, and without some protections for them with regard to future class action suits?

The industry has agreed that individual suits can be brought and brought with the aid of a document repository. With all the documents, it seems to me it would be easier to bring those individual suits. It would be easier to recover, and in my opinion, you don't need the punitive damages, because you will have a right to compensatory damages which is everything that you can possibly argue before a jury except punitive damages.

I have to say, as a former trial lawyer, I never needed punitive damages to get high verdicts in the cases I tried, and I don't think these plaintiffs' lawyers that we know today who will handle the bulk of the cases in the future will have any difficulties handling compensatory damages and getting very adequate awards for their clients from here on in. Unlike Jimmy McArdle, who had the world to fight as the first litigant attorney in Prichard

v. Liggett & Myers in the early 1960s, attorneys today will have everything going for them because of the tobacco settlement.

This law will work if we do this right. That will be a tremendous change from what poor Jimmy McArdle had to go through in the early days of Prichard v. Liggett & Myers. I remember that case. I was watching it closely. I was hoping he would win. I felt there was little likelihood he would win in Pennsylvania at that particular time because we didn't know then what we know today about the tobacco companies, about this industry and about what this industry has done to entice children to use their products.

I just have to tell you, if we keep doing what we are doing here on the floor, we will have millions more children exposed to a greater risk than they should and be exposed to during the course of the new litigation which could last for 10 years or so. Some of these children will ultimately die prematurely because of this increased risk as this litigation proceeds.

What is really unfortunate is that at the end of that litigation you will find that if this bill passes—the managers' amendment in its current form—the tobacco companies will likely prevail on a number of important matters. Then, where are we?

That means we would have let the American people down by passing legislation that will not work. And in the end, we would have done a lot of unnecessary harm to millions of children, and we will only have to start all over again, and we may not have a group of tobacco companies willing to deal at that time as they have with the attorneys general and plaintiffs' lawyers as we had under the June 20th proposal.

I yield the floor.

Mr. GREGG. It would be my intention to respond to a number of points made by the Senator from Utah and the Senator from Massachusetts. I see the Senators from Nebraska and Minnesota are here. I know they have been waiting, so I will wait for my response.

EXECUTIVE SESSION

NOMINATION OF DAVID R. OLIVER TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Mr. GREGG. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar, Calendar 562, David R. Oliver of Idaho, to be Deputy Under Secretary of Defense for Acquisition and Technology; I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and any statements relating to the nomination appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate immediately proceed to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

DEPARTMENT OF DEFENSE

David R. Oliver, of Idaho, to be Deputy Under Secretary of Defense for Acquisition and Technology.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The distinguished Senator from Minnesota.

AMENDMENT NO. 2433

Mr. WELLSTONE. I will speak for a couple of minutes on this amendment. I ask unanimous consent after I speak on this amendment that I have 2 minutes to speak as in morning business, and following that, that Senator KERREY be allowed to have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, let me join with my colleagues from Vermont and New Hampshire in supporting their amendment. I shall be very, very brief—uncharacteristically brief. I see the Presiding Officer smiling.

Minnesota is a State that has played a very central role in this debate about tobacco. I think if there is one thing that has come out of the litigation, the whole case against tobacco with Minnesota leading the way, Attorney General Humphrey and others, it is this: Minnesota unearthed a lot of documents, around 36,000 documents, and many of the documents have been referred to in the debates on the floor of the Senate. The one thing that you see over and over again is a pattern of lying. It is just a pattern of outright lying on the part of this industry. Mr. President, I don't believe that an industry that has walked away from an agreement, which has really willfully targeted our children, has really caused a tremendous amount of pain among children and their families, has really brought about the addiction of children and too many citizens dying an early death, deserves any immunity at all.

We should not give this industry any special deal. We don't in other cases. I don't think this industry should get immunity. I fully support this amendment. It is as simple as that. I see nothing in what this industry has done over many, many years—the way in which this industry has conducted itself, the way in which this industry has blatantly lied to people in this country, or, for that matter, the way this industry has related to what is going on here in the Senate—that would lead me to the conclusion that they deserve a special deal. I don't think people in the country think they deserve any special deal.

Therefore, this amendment is extremely important. I hope colleagues will support it.

NOMINATION OF JAMES C. HORMEL

Mr. WELLSTONE. Mr. President, I rise to speak one more time—and I have done this from time to time on the floor of the Senate—on behalf of the nomination of James C. Hormel to be U.S. Ambassador to Luxembourg. I have talked about Mr. Hormel's qualifications before, so I need not repeat that.

We are talking about someone who is a loving and devoted father and grandfather, an accomplished businessman, dean of students at the University of Chicago Law School, on the board of directors of all sorts of organizations, from the San Francisco Chamber of Commerce to Swarthmore College—you name it.

One of my colleagues—and I think it is extremely unfortunate—has compared Mr. Hormel, a highly qualified public servant and nominee, to Mr. David Duke who, among other credentials, is a former grand wizard of the Ku Klux Klan, founded the National Association for the Advancement of White People, and claimed that the ''Holocaust is primarily a historical hoax and not against Jews but perpetuated on Christians by Jews.''

Mr. James Hormel has been compared with this man, David Duke. I want to say to my colleagues that, given this kind of statement made publicly by a U.S. Senator, this kind of character assassination, it is more important now than ever that this man, Mr. Hormel, be allowed to have his day in the court of the U.S. Senate. There is overwhelming support for his nomination. He should be brought to the floor of the Senate, and we should have an up-or-down vote.

I want to just announce my intention to colleagues that when we come back, I will have sense-of-the-Senate amendments that the majority leader should bring this nomination to the floor of the U.S. Senate. When colleagues start making comparisons to David Duke to someone who has been such a sensitive, good public servant, that man or that woman—in this particular case, Mr. James Hormel—deserves, out of a sense of decency and fairness, to have his case brought before the U.S. Senate. I am going to be pushing very, very hard on this when we get back.

I thank my colleague from Nebraska for his courtesy.

I yield the floor.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 2434

Mr. KERREY. Mr. President, there are an awful lot of us who are now, as we head through the deliberation of this bill and the various amendments being offered—and, to be clear, I voted, on the budget resolution, in favor of the amendment being offered now by the Senator from New Hampshire. I will disclose, though, that I do not know how I am going to vote on the same amendment because I want to get a bill. I want the fine work that Senator MCCAIN and the Commerce Committee have done to yield a piece of legislation that the President can sign. I think it is terribly important. There are parts of this bill, on the other hand, that give me a considerable amount of concern.

First of all, I hope that at some point I can have this discussion in the presence of the chairman of the Judiciary Committee, who understands these issues very, very well.

First of all, I would like to talk about how we got to where we are today. The whole thing began back in 1996. There were a lot of discussions between the attorneys general, led by Michael Moore from the State of Mississippi. A settlement ensued as a result of one company, Liggett, disclosing information. This accelerated rapidly, and on the June 20, 1997, an agreement was reached. An agreement was reached between the tobacco companies and 40 States' attorneys general, and the settlement reached is very important for this debate because a number of things were in that settlement.

First of all, there was a stipulation. The tobacco industry has said that nicotine is addictive. I know a bit about addiction. I was a University of Nebraska graduate of the College of Pharmacy. I practiced pharmacy for a while. I remember in 1965 waiting in a Lincoln pharmacy for the opportunity to have my character molded by the U.S. Navy, having passed a physical examination provided by my Government. I was practicing pharmacy.

Remember, there was a great debate going on at that time in this country not just about Medicare but the regulation of drugs. At that time, in 1965, the most rapidly moving pharmaceutical in our store was a drug called Dexadrine, among other amphetamines. It is a very highly potent stimulant. At the time, the industry was saying it was habit forming, not addictive.

In 1965, prior to the enactment of changes in the law that increased the power of the FDA—and I point out to colleagues that I believe perhaps the most important section of this bill is title I, which gives the FDA increased authority to regulate tobacco and tobacco products. The tobacco industry stipulated and agreed that nicotine is addictive on June 27, 1997. That should not be in dispute today.

In 1965, Dexadrine was moving very rapidly with a powerful capacity to addict, and it was addicting a lot of people. We had to fill prescriptions for Seconal and phenobarbital just so people could get to sleep at night after taking this stuff. After this regulation went into effect, we saw a dramatic change in the accessibility to this particular drug. It went from being a very highly used medication to where, today, you would be lucky to see, even in a high-volume store, 100 Dexadrine a year. Today, it is only allowed to be used for narcolepsy.

Mr. President, a couple of weeks ago I had a meeting with some high school students at Burke High. I talked as well to other young people who are smoking. About 7 to 12 of these young people were smoking. What is quite apparent to me, Mr. President—and my suspicions are, though I have not polled it and I don't have accurate information—my guess is that most people in Nebraska, or a large percentage of people, don't understand that the landscape changed last June 20 with the tobacco industry saying yes, nicotine is addictive. They don't understand what being addicted means. They don't understand that there is a physical need and withdrawal symptoms associated with individuals who try to stop. Certainly, these young people did not understand what it means to be addicted. Indeed, when I asked them if they expected to be smoking when they reached adulthood, the majority of them said no, they did not expect to be—even though we now know that 90 percent of the people who smoke today started smoking when they were young.

The fact that we now know that nicotine is addictive and the tobacco industry is stipulating in their settlement that it is, it is an important and relevant fact, because what happens now is that we are transformed from dealing with an issue that has to do with personal freedom; we are now dealing with an issue that has to do with this question: Are we going to make an effort to save lives? In addition to being addicted, they are addicted to a substance that contains toxins, including carbon monoxide and other chemicals, which, if taken as directed, will result in the premature death of 1 out 36 people who start smoking, as well as all kinds of other health problems associated with tobacco.

So I want to begin, as I evaluate—and all colleagues should—whether to vote for the McCain bill, to understand that the industry agreed to the FDA regulation on June 27, 1997, as a consequence of the effort of Michael Moore and 39 other State attorneys general, and a settlement was reached. What the Commerce Committee has done is report out almost everything that was in that settlement. The tobacco industry agreed to pay $15 billion a year. Indeed, they agreed to pay $50 billion in punitive damages.

At the time, I remember in the aftermath of the settlement—and it seems like a hundred years ago, but it was less than a year ago—the big debate was: Would that $50 billion be tax deductible? Would the companies be able to deduct it from their income? Or would it have to be a post-tax payment? But it is $50 billion in punitive damages. They agreed to pay $15 billion more. What Senator MCCAIN and the Commerce Committee have done is say, since that time, a number of things have happened. We had a settlement in Texas, a settlement in Florida, and, most important, a settlement in Minnesota, which has the tobacco industry not only stipulating everything they did before, but releasing some 36,000 documents, most of which are still unread, my guess is, by most Members of Congress—certainly me. But just reinforcing for our citizens the idea, yes, I knew it was addictive; and, yes, I've been targeting your kids; and, yes, I've been doing some other things to try to increase sales, even though I understand that it is a terribly big public health problem.

The Commerce Committee has said we now have them agreeing to a 10-percent increase in Minnesota, and, instead of $15 billion, we are going to ramp it up to $23 billion a year. When we talk to citizens at home, please don't leave a citizen in your State with the illusion that somehow Congress or the Commerce Committee on their own came up with this number. This was agreed to by the tobacco industry on June 20, 1997. And, after the settlement in Minnesota, it seems to me the Commerce Committee is well within reason to say that instead of $15 billion it ought to be $23 billion. That is where we are.

Mr. President, the next thing I have to ask is, What are we going to do with it? What is the purpose? Where are we going? What is the idea that is most important with this legislation? For me, the most important idea—it may be different for others—is I want to save lives. I think that is what we are talking about. One out of three who start smoking dies prematurely. In Nebraska, $250 million is spent just on cigarettes; 100 million packs of cigarettes are sold every single year in Nebraska. I want to decrease the number of people who are buying cigarettes. If I can get 50,000 of the 350,000 Nebraskans who smoke, if I can help them stop smoking, not only do I save the lives, I save the money.

All of this conversation about a tax increase and being concerned about low-income Americans and the taxes they are going to be paying, if they would do this bill right, we would help people stop smoking and reduce their out-of-pocket spending for tobacco, not to mention the out-of-pocket spending for health care, the out-of-pocket spending that occurs as a result of not

being able to go to work, and the out-of-pocket spending for some other things.

I ask Members: Have you ever talked to anybody who has been able, after a long period of time, to quit smoking how they feel? Are they happy? Are they glad? The answer is always yes. They can do more. They and their kids are enjoying life better. They feel healthier. They have more money in their pocket as a consequence of not having the addiction as a part of their life. They do not say, ''Gee, I am mad at you because you helped me stop smoking.'' They are glad.

This piece of legislation, as far as I see it, that we are debating right now is an opportunity for me to go home and say, ''We are going to try to save lives, not just to try to prevent young people from smoking''—we have about 30,000 people in Nebraska who are underage who are smoking cigarettes—but also to go to the adults, the 350,000 adults who are buying 100 million packs of cigarettes a year, and help them stop smoking, to save their lives, to decrease their out-of-pocket spending for tobacco, and to give them a shot at the American dream—at least connected with tobacco—and able to say, ''I am healthier and, as a consequence of being healthier, happier as well.''

There are two provisions of this bill—I don't know if the Senator from Arizona wants to respond to any of them or not—that concern me. The first is the provision for the tobacco farmers. I will wait until my friend from Kentucky comes down to the floor. I will have a chance. The Senator from Indiana has an amendment down there.

First of all, I want to say that without the Senator from Kentucky and the Senator from South Carolina, there would be no provisions in here for tobacco farmers. I agree with them; there need to be some provisions for tobacco farmers to help them as we move from the old era, when we were neutral as to the health impact of this naturally grown product, to a point where we now say we want to help people stop smoking because it is killing them, it is ruining their lives and ruining their health. As we go from that point, it seems to me reasonable that we ought to have some transition payments for Americans who earn their living by growing tobacco.

There are about 740,000 acres of tobacco acreage nationwide. To put that in perspective, one of the reasons I am concerned about it is, in Nebraska we have about 22.5 million acres for other crops, and 1.5 billion nationwide; 740,000 acres of tobacco quota against about 1.5 billion acres for all other agricultural products. Freedom to Farm, which I think we ought to pattern the tobacco language after, Freedom to Farm was about $36 billion total for 1.5 billion acres.

It seems to me we ought to be looking for some way to pattern the tobacco farmer portion on what we have done for other farmers in this country as we transition into an era where we say, ''You are going to have the freedom to make your own decisions, plus the market will allow you to decide how you are going to plant and what you are going to plant.'' I have a very difficult time voting for something that has $28 billion for tobacco farmers when I did $36 billion for all farmers, including mine in Nebraska. We paid out at that time about 10 percent of the value of the crop. Ten percent of the value of the crop was one of the bases to come up to use for the payment.

I hope again I am able to work with the Senator from Kentucky, because I applaud his work, the work of the Senator from South Carolina, and the work of the Senators from Virginia and North Carolina. Lots of people have had input into this to make certain we do something to help the tobacco farmer. The question is, How much are we going to help?

I am troubled by that provision, I say to my friend, the chairman of the committee, who is trying to figure out how to manage this across the line. I hope to be constructive in getting that done. I voted against putting another 40 cents on. I will probably vote against the amendment of the Senator from New Hampshire, even though I voted for it before when it was on the budget resolution, because it seems to me that you have increased the cap on liability. I think it was 6.5 in the first bill. It is now $8 billion a year. That is a lot of money. We are not giving the tobacco companies—I think people said we don't want to give tobacco companies special treatment. They will be required under this legislation to pay $23 billion a year into a tobacco trust fund. That is not my idea of giving somebody in the private sector special treatment. It seems to me that it is a reasonable tradeoff in order to be able to fight this battle.

To me, the most exciting thing about this legislation, now that we have the full truth about what tobacco can do, is I will be able to go home and say this legislation will enable us to organize community-based efforts to help not just our children keep from starting to smoke but also help in my State 350,000 adults who currently smoke whose lives, in all likelihood, are going to be shorter and they will be less healthy as a consequence.

That leads me to the second concern I have. Again, I have an amendment on the tobacco farmer portion, depending on the disposition of the Lugar amendment, that will place a greater emphasis on prevention and smoking cessation. I really have come to a point now where I say what makes it work for me is to be able to go home to Nebraska and say this bill helps save lives. That is what we are doing. If I can get that done, if it enables me to save lives, it seems to me I have something that I can make work at home.

To that end, the amendment that I have prepared—and I am not going to lay it down right now because we have one that we are debating—would take the money and, instead of ramping up from I think $15 billion initially up to $23 billion a year, the breakdown is, 40 percent of that money goes to the States, 22 percent of that money goes to NIH, 22 percent of that money goes for smoking cessation, education, and international trafficking—to stop international trafficking—and, as I understand it, 16 percent I think is left that goes for tobacco farmers. As I said, I think that 16 percent is too high. We have prepared an amendment, depending upon the disposition of the Lugar amendment and depending upon my ability to be able to negotiate about the Senators who worked hard on this provision.

But I believe what would also increase the likelihood of being able to save lives at home, being able to make this thing not just a situation where, as a result of increased Federal regulation through FDA, as a result of the tobacco industry raising the price because of the fees they will be paying into this national trust fund, another way to do it would be to take that 40 percent that is allocated to the States and add the 6 percent that ends up being estimated for prevention in the third area, and consolidating all that into a block grant that would go for smoking prevention and cessation, insist in the language of the law that the Governors put together a community-based organization to come up with a plan to help people stop smoking and have HHS approve that plan. I think it would allow us to have a steady stream of money that would come into each one of our States.

I am uncomfortable about having anybody but Members of Congress deciding how money is going to be spent. I love my Governor. I love all Governors. They are all great Americans. But as far as I am concerned, the Constitution gives me the authority to vote to raise taxes and vote to spend money, and I think that is what we ought to be doing.

As concerned as I am about getting more money into Medicaid, the thing that I have to do in order to make this successful is I have to have those people out there who are smoking stop smoking.

So I would at some point come to the floor and offer an amendment. I hope to have some conversations with the chairman and the ranking member on this, because I think we could improve the bill substantially if our goal is to save lives and reduce the number of people who are smoking, not just stopping young people from becoming smokers but helping those who are already smoking stop in order to be able to save their lives. It seems to me we ought to consider that the funding language in here needs to be altered and a much greater emphasis placed—indeed, it ought to be the most important emphasis—on smoking cessation programs.

Let the Governors write a community-based plan. Make them engage the community. It is much more likely at the local level that real answers are going to be found for this problem. It is not as easy as it sounds not just because of addiction but because of other reasons to stop smoking. I think it is much more likely they will come up with plans that work.

Let us, as a consequence of our concern for public health, work with those community groups to make certain that the money is going in that direction.

I discussed as well with the managers creating a tobacco scholar through NIH funding for every State. I don't know about other Senators, but I need a lot of help with numbers, with what the research is saying. Not only do we put more money into research, but it is likely that all of us are going to see State-based efforts to reduce smoking, and if we have to scramble around and try to figure out what the data is, to try to figure out what the facts are, it gets difficult to do it.

So I am here. I say to my friend from Arizona, I like what you have done. You have a good bill, it seems to me, in the Chamber, one that if we can get it passed, get beyond all the problems of price increases and concern for the poor, and so forth, I say to my friend from Arizona, will enable you to say you have saved millions of lives as a consequence of this law.

That will be my hope. And, indeed, I believe it is reasonable to assume, as I look at the language of this law, that we will as a result of helping people not smoke to begin with and stop smoking if they have made that decision and became addicted to nicotine, their lives will be happier and longer and healthier as a consequence of this legislation. Thus, there is an urgency to do it, an urgency to make sure we don't make the perfect the enemy of the good. There are lots of good amendments coming up. I have some ideas. All of them are not going to be incorporated. We still have the House to get through and the conference to get through. So I praise very highly the fine work the chairman has done on this thing, and I hope the wishes of the majority leader will be heard and that we are able to get this thing done before we get out of here for the Memorial Day recess.

Mr. President, I yield the floor.

Mr. MCCAIN. Mr. President, I thank the Senator from Nebraska for his thoughtful and measured remarks, and I appreciate his willingness to compromise, which has been a trademark of the Senator from Nebraska for a long time.

I would not ask him if he felt the same way about our relations, congressional relations with Governors when he was Governor of the State of Nebraska. I will leave that question unanswered at this time. But I do again thank him for his thoughtful approach. Obviously, he has studied this very complex issue and a number of his recommendations, I believe, are important and may be adopted either by agreement or in amendment form. I thank the Senator from Nebraska.

Mr. President, because of the schedules of Senators, it is now my intention to move to table the amendment sometime around 2 o'clock. A number of Senators are off the Hill and will not be back until that time. Also, I understand the distinguished Democratic leader would like to make some remarks before the vote.

Mr. President, I know that the Senator from California and the Senator from Illinois and my friend from Texas all want to make remarks. But I will just take about 2 or 3 minutes to say I paid attention to the remarks of the Senator from Oklahoma. I appreciate them. Many of them were constructive. Many of them I profoundly disagree with and cannot and will not at this time respond to over an hour of comments and an in-depth discussion of the bill.

But the criticisms of the Senator from Oklahoma basically boil down to four fundamentals: One is a tax increase; second is big spending; the third is big government; and the fourth is the argument that it will not stop kids from smoking.

I will briefly address that in general terms and at a later time I will give more specific responses to the Senator's very strong and, by the way, well-meaning criticisms of the Senator from Oklahoma.

The argument that this is nothing but a tax increase would have some validity if it were not for the fact that there will be an increase in the price of cigarettes even if this body and the Congress of the United States do nothing.

Two weeks ago, there was another settlement, the fourth made between the industry and a State. It was between the industry and the State of Minnesota. What was the agreement? It was a $6.5 billion agreement, the largest yet on a per capita basis. And guess what is the result of that agreement? An increase in the price of a pack of cigarettes in Minnesota in order to pay for the settlement.

I might point out that settlement was double the settlement that was achieved by the attorneys general with the tobacco industry last June 20. As we see settlement after settlement after settlement, we will see an increase and an increase and an increase in the price of a pack of cigarettes. So we will either enact an increase in the price of the pack of cigarettes, earmark it to the worthy causes, the four that we have laid out, the States, public health, research, and the farmers, or we will watch as State after State goes to court, achieves a settlement or a jury verdict, and we see the same result.

What is the problem with that? The only problem with that is 3,000 teens start smoking every day and 1,000 will die early as a result of health-related illness. So, Mr. President, if you want to call this a price increase, that is fine. But if anybody in America believes there is not going to be a dramatic increase in the price of a pack of cigarettes as a result of negotiations or litigation, they simply have not observed what has happened in the case of the four previous States in the past several months. And 36 more States, at least, are lined up to go to court.

Now, this also does touch to some degree the argument my friends have about attorney's fees. The last I saw—and I don't keep close track of what happens in Florida—the plaintiff lawyers were going to get $2 billion out of the settlement. I think we need to address the issue of lawyer's fees, but if you are worried about it, I would think you would then support a comprehensive settlement as opposed to watching this go on. It isn't just the lawyer's fees that will cost the taxpayers. It is the cost of litigation, which we know is serious.

So if you want to call it a tax increase and quote the biggest in history, blah, blah, blah, then that is your right. But I think in all fairness, in all fairness, you ought to understand the consequences of failure to act, which will be larger increases in the cost of a pack of cigarettes, larger litigation and more delay and, finally, of course, the problem that we need to address and that is the issue of kids smoking.

The second argument is that it is big spending. Let me point out that 40 percent, the biggest chunk of this settlement, goes to States that have incurred costs associated with Medicaid. That is where 40 percent of the money goes. And we also know that we don't know—that we don't know—exactly what it is that causes kids to smoke. We have some pretty good ideas. And, by the way, every single expert, including—including the chief executive of Philip Morris, who, while they were negotiating with the attorneys general, said, ''We all know that price rates are more sensitive to kids smoking than adults.'' That makes sense, obviously, since kids generally don't have as much money as adults do.

But if you want to call it a big spending bill, let's look at where the money is going to, and that is for research, and it is to go to health care, and it is also to go to farmers who are going to be dislocated by this. Remember also that much of the smoking prevention and cessation is in block grants so that the States will be able to do what they think is best with it.

Big government? This may be a big government solution. This may not be the solution that I would have had envisioned nor that the Senator from Massachusetts would have envisioned. This is as a direct result of the agreement which was reached between the attorneys general, 40 of them, and the tobacco industry, which set the stage for the fact that the U.S. Congress needs to act—or at least address the

issue. We may not act. We may not act. We may decide, as my friend, the Senator from Texas, will so eloquently argue, that we can't do this. But when the stage was set with that agreement last June 20, and we were going to have to act it out, what we did in the Commerce Committee by a 19-to-1 vote was put our imprint on it, and the benefit of our wisdom, our knowledge, and, frankly, that of every public health group in America, as well as many other organizations.

Finally, and I apologize to the Senator from California for taking this much time, but the other is that it will not stop kids from smoking. You know, I challenge anyone who says this bill will not reduce teenage smoking to find a single public health organization in America, that is legitimate, that is not on the payroll of the tobacco companies, that will say that an increase in the cost of a pack of cigarettes, plus youth cessation programs, will not have a beneficial effect on this terrible problem.

There was a chart, the Senator from Massachusetts saw it the other day, of the deaths in America. The bar graph was dramatically higher, tobacco-related illnesses death, as opposed to drunk driving, as opposed to many other causes of death in America.

If it will not work, then are we satisfied with the status quo? Are we satisfied that in America today this problem is not only real but growing? We had a Centers for Disease Control study just recently, teenage smoking is on the rise. Minorities in America, those teenagers are starting to resort more and more and more to the use of cigarettes.

So maybe it will not—maybe it will not stop kids from smoking. Maybe this will not work. But to accept the status quo, in my view, and think that just by passing a tax increase on cigarettes we will address that issue, will not do it. I challenge my friend from Texas, who is waiting to speak, I think, very soon. If the Senator from Texas can find a single public health organization in America—the American Cancer Society, the American Lung Association, the Coalition for Tobacco-Free Kids, any living—any living Surgeon General of the United States of America, who will say to you and this body: OK, just pass a tax increase, fund some tobacco cessation programs and that will do the job—then I think that should be an important part of this debate.

But the reality is, not a single one of those organizations will say that anything less than a comprehensive approach to this problem will do the job.

So I just wanted to take a few minutes to respond to the very well thought out and very studied and scholarly, in many cases, objections that were raised by the Senator from Oklahoma. That is what this process is supposed to be all about. I appreciate his input, as I do that of my dearest friend, the Senator from Texas, who has promised me, and I have promised him, we will remain smiling throughout this debate.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished chairman for his excellent comments. I would not say anything more substantively except to say I think both the Senator from Arizona and I, and others involved in this, believe that there are a number of good suggestions that have been made. I think we laid this down with the statement this is not perfect in the way that no piece of legislation that comes here is perfect. I am confident that in the process, if we are not seeking to kill it, we can find a way to meld some of the good suggestions that are being made into both acceptable amendments and amendments which can pass by their own weight. I hope we will do that.

Mr. President, I ask unanimous consent the Senator from California be recognized for 10 minutes. Following the Senator from California, the Senator from Texas, Senator GRAMM, will be recognized—not for a specific period of time—and following the Senator, the Senator from Illinois, Senator CAROL MOSELEY-BRAUN, would be recognized for 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I amend that by asking if Senator HAGEL, the Senator from Nebraska, could be recognized after Senator CAROL MOSELEY-BRAUN?

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator KERRY very much for his leadership on this issue. Senator KERRY, Senator MCCAIN and many other colleagues, including Senator CONRAD and Senator DASCHLE, our Democratic leader, have put in so much time and effort on this important issue. I extend my thanks to them.

Mr. President, I have not spoken yet on the floor on the subject of tobacco legislation. I am going to be concise. Let me tell you why. I am going to be concise because this not is a difficult call for me. I am going to support the strongest possible tobacco legislation we can put together. I am going to support not the weakest, but the strongest tobacco legislation we can put together. There are two reasons for this. First, Smoking kills our people. Second, kids are the targets of the tobacco companies, which is a crime against them and against all of us. For these two critical reasons we must act now to pass the strongest tobacco legislation possible.

I have a couple of charts that I am going to share which I think tell the story. This one says, ''Tobacco Kills and Smokers Get Hooked as Teenagers.'' Approximately 90 percent of adult smokers started smoking at or before the age of 18. When they are older, 66 percent of them say, ''Oh, my God, I wish I could quit.'' We need to do something to help young people so that they are not faced with this painful, horrible addiction later in life.

How do you do that? You don't do that by siding with the tobacco companies. You do that by siding with the public health experts in this country.

This chart very clearly shows how people die from tobacco. We will start off with stroke deaths, 23,281. I am not going to round off these figures, because each one represents a real person, your father, your mother, my grandmother, my grandfather, et cetera. It is all of us represented in these numbers.

Lung cancer, 116,920 deaths from lung cancer. 134,253 deaths from heart disease. Bronchitis/emphysema deaths, 14,865.

This many deaths occur every single year. Every single year Americans have these painful, awful deaths.

Pneumonia, 19,173 deaths. Hypertension, 5,450 deaths. All of these deaths are related to smoking. Secondhand smoke cancer deaths—how is this one? These individuals don't even smoke, but they breathe it because someone they work or live with smokes and 3,000 people die every year. Absolutely proven fact, secondhand smoke kills 3,000 innocent people every year.

Other cancer deaths related, 31,402. Other cardiovascular diseases, 16,854. Other respiratory diseases, 1,455. And how about infant diseases; 1,711 infants are dying. Burn deaths, 1,362. Chronic airway obstructions, 48,982.

It adds up to 400,000 dead Americans every single year. In spite of this terrible fact, some of my colleagues are standing with the tobacco companies. I am sorry—count me out of that crowd.

Who am I going to stand with? RJR Tobacco? Philip Morris? No. I am going to stand with Dr. Everett Koop. I am going to stand with Dr. David Kessler. I am going to stand with the medical community. I am not going to stand with the tobacco companies. I am going to stand with the American Association of Public Health Physicians, the American Lung Association, the American Medical Student Association, the American Medical Women's Association, the American Patient Association, the Americans For Nonsmokers' Rights, the Association of Military Surgeons of the United States, the Association of Black Cardiologists, the Center for Women Policy Studies, the Child Welfare League of America, Chinese American Antismoking Alliance, Citizens for a Tobacco-Free Society, Interreligious Coalition on Smoking and Health, National Asian Women's Coalition—the list goes on and on and on.

I am going to stand with the public health community. If my colleagues want to stand with the tobacco companies, that is their free choice; they are free to do it, and they are also free to explain it to their constituents.

One of the things I heard yesterday from one of our colleagues, Senator ASHCROFT, is how horrible it is to increase the cost of a pack of cigarettes; isn't that terrible for poor people. The very people on this floor who are complaining that we are hurting poor people were never there when we passed the earned income tax credit that helped lift Americans out of poverty. They were never there when we raised the minimum wage. Now, suddenly, they are concerned. It is my opinion what they are really concerned about is the tobacco companies.

I don't hear these same people saying, ''Well, America, if you really want to put money in your pocket, you can give up smoking and pocket the money from the two packs or three packs you smoke a day.'' That is what they could be saying. When they talk about the tax on cigarettes, I don't think they are really concerned about poor people. I think they are concerned about the tobacco industry.

What I am concerned about is not just the cost of cigarettes, not only in dollars but in lives. 400,000 lives every year and 80 percent of them are hooked as teenagers. I am going to show you another chart.

This chart must look very dizzying on TV. Let me tell you what it is. It is 3,000 stick figures of children. That is how many kids become new smokers every single day.

Today, 3,000 children will start to smoke. Every third one will die from a smoking-related illness. These children are shown in the darker shade. Every third one will die.

I have seen colleagues come to the floor with charts about how with tobacco legislation there is going to be bureaucracy, and it is going to be terrible. You want to take a look at this —3,000 teenagers starting to smoke every day and every third one of them will die. That is what is truly terrible. What is terrible is that children are smoking and these children will die.

That is why I am standing here today. I urge my colleagues to listen to the arguments on the floor and remember that it all comes back to two issues: One is that every day 1,000 kids put themselves at certainty of death from smoking, and in every year, 400,000 Americans die and almost 90 percent of them started just like this when they were kids.

I have to tell you, passing strong tobacco legislation isn't even a close call for me.

Under oath the tobacco companies said, ''We do not market to children.'' They said, ''Our advertising is not designed to attract young smokers.''

But when the lawsuits were filed against the tobacco industry, they came up with all these smoking guns, if you will.

We have to compliment the efforts of dedicated government attorneys who worked on this. I would like to extend a special thanks to Louise Renne, the City Attorney for the City and County of San Francisco. It was due to her tireless efforts of that we have many of the documents that show how the tobacco industry targeted our children.

From a Philip Morris memo in 1981:

> It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens . . . it is during the teenage years that initial brand choice is made.

This is from a private, internal memo. And how about this:

> . . . Because of our high share of market among the youngest smokers, Philip Morris will suffer more than the other companies from the decline in the number of teenage smokers.

Philip Morris is going to suffer? Philip Morris is going to suffer if kids stop smoking? It is in black and white. I ask them about the suffering of people who die from these diseases. Have you ever seen someone die of lung cancer? Have you ever seen someone sit near you on a plane with oxygen going up their nose because they can't breathe? Philip Morris is going to suffer? Smoking is what causes real suffering.

I am going to stand with the public health officials. I am going to stand with them, and I am going to stand with them proudly. People can come on this floor, and I welcome their debate, but when you cut to the chase, the arguments against strong tobacco legislation are same arguments Philip Morris is making, they are the same arguments RJR is making, they are the same arguments that tobacco companies and their sophisticated lawyers are making. Their arguments have nothing to do with the hard, cold facts that they are trying to hook our kids.

As Senator MCCAIN said today, we know, we can do something about it and at least we know we cannot tolerate the status quo. That is what this tobacco legislation is all about.

A draft report from RJR said:

> . . . The brands which these beginning smokers accept and use will become the dominant brands in [the] future. Evidence is now available to indicate that the 14- to 18-year-old group is an increasing segment of the smoking population. RJR [tobacco] must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.

It is time that we expose this danger these companies pose to our children. It is time to end the horrific costs to our society of losing a wife, a mother, a grandma too soon because when they were young, they got hooked on tobacco; they got hooked by companies who swore to God in front of this Congress that they never went after kids.

Why should we stand with the tobacco companies? Why should we? We shouldn't. We should stand with C. Everett Koop. We should stand with the American Lung Association. We should stand with the people who care about our children.

Brown and Williamson in 1973, another tobacco company said:

> Kool has shown little or no growth in share of users in the 26 [plus] age group. Growth is from 16 to 25-year-olds . . . at the present rate, a smoker in the 16 to 25-year-old age group will soon be three times as important to Kool as a prospect in any other broad age category.

There it is. For anyone to think that we should stand with those companies who went after our children—for anyone who thinks that is the right thing to do—I guess I just don't understand their position.

It comes down to two things: Smoking kills and they grab our kids, and they grab 3,000 kids every single day, and every third one will die of smoking-related illness.

These cigarette companies even discussed adding honey to cigarettes so they could grab the youngsters. Here is that quote. A 1972 Brown and Williamson document states:

> It's a well-known fact that teenagers like sweet products. Honey might be considered.

We have to do something. We should pass the strongest possible tobacco bill.

One successful way to reach the children is through education, and one proven success is to make sure that in after-school programs, our kids are taught about the dangers of drugs, alcohol and smoking. It works.

I am working on an amendment to make sure that when we support tobacco cessation programs, we do not disqualify after school programs. I am excited to say that it looks like that amendment will be accepted.

Mr. President, I see that my colleague is ready to attack on his point of view, and I am going to yield. If I might have 20 seconds?

Mr. GRAMM. If the distinguished Senator from California needs a couple more minutes, I have no objection.

Mrs. BOXER. I thank the Senator. If I could finish in about 60 seconds.

Mr. GRAMM. I ask unanimous consent the Senator from California have 5 additional minutes.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

Mrs. BOXER. Thank you very much. I will not be using that much time, I say to my friend. So I urge him to just stay on the floor.

I do not have complicated reasons for supporting the strongest possible legislation. It is simply about life and death. And it is very obvious to me that by passing comprehensive, tough legislation, we have a chance to stop kids from smoking and to stop the deaths and turn these awful statistics around. We have what may be a once-in-a-lifetime opportunity to do it. I hope we are going to do it.

Not every amendment that I vote for is going to be in the final package. I understand that. But I am going to support the toughest bill possible. I am going to offer an amendment to make sure that we support after school programs to educate our children against the problems of smoking. There are many effective after school programs

that teach kids about tobacco in a very straightforward, good way so that they resist the temptation and peer pressure to smoke.

So I am glad to stand with my friends in the Senate who look at this as an opportunity to stop deaths, to stop the targeting of our children. And I am very hopeful, Mr. President, that we will, in fact, end up with a strong piece of anti-tobacco legislation.

Thank you very much, I say to my colleague from Texas, for his generous spirit. I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say if we pass this bill I hope that we will be successful in inducing not only teenagers but other Americans to come to their senses and to stop smoking.

Once in my life I was an economist. And any economist will tell you, other things being the same, at a higher price people will consume less of a given product. The problem, of course, in the real world is generally other things are not the same.

A concern I have raised that has not been dealt with is that no country in the history of the world, so far as I am aware, has ever imposed a tax at the level we are debating here and not had a black market for cigarettes develop.

In Britain, 50 percent of cigarettes are sold on the black market. In Italy it is 20 percent. Canada raised cigarette taxes to try to induce teenagers to stop smoking, but then their country was inundated with illegal cigarettes. The effect was to actually lower the price of cigarettes bought on the black market. Canada, in an extraordinary action, actually repealed the tax increase. And the minister of health said that by repealing the tax increase, and thereby forcing teenagers to attempt to buy cigarettes through legal channels they would reduce teen smoking. By limiting the economic foundation of the black market, they might be more successful in reducing teen smoking.

I am hopeful that, if in fact we raise taxes to the degree we are talking about, something good will come from it. Obviously, inducing teenagers to smoke less would certainly be a good thing.

The issue I want to address today, and the issue that I hope we will vote on before we go home for the recess, is the issue of what we are going to do with this money. We can debate endlessly what the tax increase is going to do and what it is not going to do. I am still very much troubled by the impact of this tax increase on real people.

In listening to many of the strongest proponents of this bill, you get the idea they are taxing tobacco companies. That somehow we are getting revenues from companies that have conspired to deceive the public, that have conspired to induce teenagers to smoke. Therefore, not only are we getting the good of higher prices and the impact that might have on consumption, but in fact there is almost a retribution quality to it.

I guess I have to temper that with a cold recognition that in this bill we are not taxing tobacco companies. In fact, we have an extraordinary provision in this bill that makes it illegal for tobacco companies not to pass the cost increase through to consumers.

So except for a look-back provision, where we are actually going to poll teenagers, and if we find that teenage smoking has not declined, we will have a look-back tax on tobacco companies and target those who we find, through the poll, are the preferred brand names.

It is interesting, because article I of the Constitution gives Congress the power to impose taxes. Nowhere has it ever been contemplated we would allocate that power to a pollster. And it is clear to anyone that provision is unconstitutional. But beyond that provision every penny of taxes we impose in this bill will be paid for by people who consume cigarettes.

Now, we might wish that were not the case. I wish it were not the case. But, unfortunately, that is the way the bill is written. In fact, as I said a moment ago, the bill is actually structured so that tobacco companies could not pay the tax if they wanted to. They are forced, by law, to pass it through to the consumer.

One of the things that troubles me is who this consumer is. I mentioned these numbers the other day, but they are relevant to the amendment I want to talk about today. Thirty-four percent of the new tobacco taxes in this bill will be paid for by Americans who make less than $15,000 a year. They do not own Philip Morris or any other tobacco company.

These people are, by the logic of this bill, victims. They have been induced to smoke. They have, in the logic of this bill, become addicted to nicotine. And if you had to classify them into a category, it would be the category of ''victim.'' And yet for people who make less than $15,000 a year, they are going to pay 34 percent of these taxes.

This is not a trivial amount of money. When you add up all the tax provisions in the bill, most of the estimates tend to indicate that a pack of cigarettes, which in my State sells for about $2, will rise in price to about $4.50 to $4.75 a pack. These prices are for a $1.50 per pack increase, which is substantially less than this bill will produce when you add up all its provisions.

An individual who smokes an average amount would pay $356 a year in new tobacco taxes. And for a couple making less than $15,000 a year, they will pay a whopping $712 in tobacco taxes from an effective increase in price of $1.50 per pack. To someone making less than $15,000 a year, $712 a year is a lot of money.

So what concerns me, and obviously does not concern many of my colleagues, is the impact of this tax on blue-collar workers. When I listen to the proponents of the bill, they make two things very clear. They care about driving up the price of cigarettes, and they don't care about the money. In trying to respond to the fact that 70 percent of Americans believe this bill is about taxes and not about smoking, over and over again they say, ''We want the higher tax because we want to discourage smoking, not because we want the $700 billion.''

Senator GREGG has an amendment pending which I do not believe will be tabled. I intend to vote against tabling the Gregg amendment. The Gregg amendment says that we shouldn't be granting immunity to tobacco companies for future suits. Basically the Gregg amendment strikes the provision that caps liability. I intend to vote with Senator GREGG. I don't believe his amendment will be tabled.

When his amendment is acted on, I intend to offer an amendment that addresses what to do with the money. I hope my amendment will have very broad-based support. I thought I would take the time now to explain it so that if the Gregg amendment is not tabled, and I can offer the amendment at that point, people will know what is in dispute, and those who want to come and speak on it can do so. I will offer the amendment for myself and for Senator DOMENICI. I know he will want to come over at that point and speak, and I am sure many others will want to speak for and against it.

The issue here is the following: If we pass this bill, blue-collar Americans making $15,000 a year or less will pay 34 percent of the taxes the bill will impose. Individuals making less than $22,000 a year will pay 47 percent of the taxes that will be imposed by raising the price of cigarettes. Those making less than $30,000 a year will pay a whopping 59.1 cents out of every dollar of taxes collected under this bill. In other words, this is not a tax that is randomly distributed among the general population of the country. The plain truth is, with a few exceptions, smoking in America today is a blue-collar phenomenon. The vast majority of people in America who smoke, and therefore who will pay this tax, are blue-collar workers. Almost 60 percent of this tax will be paid for by Americans who make less than $30,000 a year.

Now, this produces some extraordinary results. Were the following numbers not from our own Joint Tax Committee, they would be difficult to believe. Let me give you just two numbers. For Americans who make less than $10,000 a year, the taxes embodied in this bill will raise their Federal taxes by 41.2 percent in 1999. In the year 2003, when this bill is fully implemented and the tax is fully phased in, Americans who make less than $10,000 a year will see their burden of Federal taxes rise by 44.6 percent.

If our objective is not the money but to get people not to smoke by raising the price of cigarettes, shouldn't we

take some of the money we are taking from very moderate-income Americans and give it back to them by cutting other taxes? Couldn't we find a tax cut that would apply to moderate-income Americans so that we wouldn't be lowering the real standard of living for people who are the victims of cigarettes by having become addicted to smoking and to nicotine?

If a motion to table the Gregg amendment fails, I will offer an amendment with Senator DOMENICI. This amendment aims to take roughly $1 out of every $3 collected in these cigarette taxes and give it back to Americans with family incomes of less than $50,000 a year. We do it by repealing a provision of the Tax Code that is generally known as the marriage penalty. Let me basically explain how the marriage penalty works, what our amendment will do, and then wrap up. I see other colleagues are here to speak.

Under the existing Tax Code, we have an incredibly destructive provision that actually says when two young people meet, fall in love and get married, if they both work outside the home, they actually have to pay more taxes as a married couple than they would have to pay if they were single. Under our Tax Code, that average marriage penalty is about $1,400 a year. Now, I think I speak for many people who are married in saying that my wife is easily worth $1,400 a year. I would gladly pay that price and more for the privilege of being married, but I don't think the Federal Government should get that money. Maybe my wife should get that money. Also, I don't understand discouraging the creation of families when families are the most powerful instruments for human happiness and progress that have ever been created.

Let me remind my colleagues, if anyone has followed this debate, they know that everyone who has spoken in favor of this bill has said the money is incidental; that this is not about the money, they just want to raise the price of cigarettes. I will offer this amendment with Senator DOMENICI to help them fulfill that commitment and prove that is what they want. So our amendment is a very targeted tax cut that takes roughly $1 out of every $3 raised by this tax and gives it back to Americans with family incomes of less than $50,000 a year.

Here is how our bill will work. It will target families that make less than $50,000 a year. Right now, a married couple filing a joint return can earn $6,900 before they have to start paying Federal income taxes. If they filed separately and they weren't married, they could jointly earn $10,200 a year. If you wanted to state it dramatically, you could say that if they live in sin they can earn $10,200 without having to pay any income taxes, but if they get married they have to start paying income taxes after they earn $6,900. Now, almost everyone realizes this is a destructive tax policy, but we haven't been able to fix it.

What the amendment that I will offer for myself and for Senator DOMENICI will do is: for those who make less than $50,000 a year as a family income, we will give them an additional deduction of $3,300 a year. They will pay the same taxes whether they get married or whether they don't. The net result is a substantial tax cut for moderate-income working families. We will adjust this for inflation to assure that we preserve the real value of this deduction.

Finally, we apply it to the earned-income tax credit. As almost everybody here knows, if you work and you make modest incomes, you can get an earned-income tax credit. What we will do in our amendment is allow the marriage penalty in tax terms to apply above the line so that a working couple, a very-modest-income working couple, can deduct this correction for the marriage penalty before they calculate their eligibility for the earned-income tax credit.

Among the largest beneficiaries of the amendment that Senator DOMENICI and I will offer will be very modest income, blue-collar workers earning very low wages. What we will do is allow this deduction to apply to the earned-income tax credit.

If our amendment is adopted, roughly one-third of the tax that is collected on cigarettes would be given back to the very blue-collar families that will bear the largest burden of taxation as a result of taxing cigarettes. Some couples will pay $712 a year in new cigarette taxes under this bill.

Under our amendment, the price of cigarettes would still go up as mandated by the underlying bill. To the degree that people respond to the higher price, we will have the impact of that rise in the price of cigarettes, but we will not be making modest-income workers poorer by the amount of the tax because we will take $1 out of every $3 of the tax and give it back to the very same families by repealing the marriage penalty for middle and moderate income couples.

Now, why is that important? It is important because the very people who are going to be hurt the most by this tax are moderate income people who have been victimized by tobacco companies. I am sure my colleagues are having their offices flooded with letters and postcards, as I am, from people who are basically saying, ''I have a very modest income and I smoke, don't raise my taxes; tax the cigarette companies.''

Well, what we are doing here in our amendment is allowing the increase in the price of cigarettes therefore discouraging smoking, but we are giving at least part of the money back to middle-income and moderate-income families.

So I hope my colleagues will support this amendment. I think it is very important that we vote on a tax cut as part of this bill before we adjourn. If we don't do this, we are going to have done something extraordinary in this bill, and I can't help but be struck by the paradox of it. In this bill, we are saying that people who smoke have been victimized by the tobacco companies; yet, we are turning around and taxing the people who smoke because the bill prohibits tobacco companies from not passing the tax through to the people who smoke.

So while many people view this bill as firing a shot with a tax at the tobacco companies, in reality, the tax is hitting very moderate-income, working Americans. It is hitting the very people who have been victimized by the tobacco companies. The amendment that Senator DOMENICI and I will offer after the motion to table the Gregg amendment fails says, since the proponents of the tax pledge that this is not about the money, that it is not the money they want, it's the higher price of cigarettes, go ahead and take the tax, but, as a modest down payment, let's take $1 out of every $3 we collect in cigarette taxes and give it back to moderate- and modest-income families. Let's make it subject to the earned-income tax credit so that very low-income, working Americans will not be hurt as badly. If both members of the married couple smoke, they will be paying $712 a year in Federal taxes under this bill. Let's eliminate the marriage penalty under the Tax Code for middle- and moderate-income families so that while the price of cigarettes goes up, they don't find themselves economically crushed by it. They will have an incentive to quit smoking, but at least a third of the money would come back to them by eliminating a discriminatory provision in the Tax Code.

I would like to go further than this amendment, and we will have an opportunity to do that. But this is a first installment. I think it is very important that we vote on this amendment before we recess, since it is clear that we will not finish the bill this week. I hope that my colleagues will support this amendment when Senator DOMENICI and I offer it to the Gregg amendment, hopefully, immediately following the motion to table the Gregg amendment.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for 15 minutes, to be followed by the Senator from Nebraska.

Mr. CHAFEE. Mr. President, may I make a unanimous consent request? I ask unanimous consent that I might follow Senator HAGEL?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that I be privileged to follow the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to

share some general thoughts with regard to S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act.

It has been said on the floor before that the fundamental goal of the legislation is to significantly reduce smoking among the Nation's youth. That, of course, is a goal that I think everyone can support. I certainly support it.

I am going to take a slightly different tack, Mr. President, because I am a reformed cigarette smoker. I say to the Senator from Kentucky, I recently stopped smoking—successfully. And this time, for real. I developed the habit when I was a teenager, at a time when the tobacco companies were still marketing their products as being ''safe.'' In fact, I am old enough to remember television commercials portraying a ''doctor'' with the white coat on, with a stethoscope around his neck, talking about how one cigarette brand was ''healthier'' for you than another brand. Well, of course, we all know now that they were lying to us, frankly. The tobacco industry knew at the time that cigarettes are not healthy, they are not safe, and that they are all addictive. Cigarettes lead directly to a variety of cancers, emphysema, heart disease, premature death and, I point out to the ladies, wrinkles on your face. That is something tobacco companies have known for a long time; they just did not tell us, and they were not very candid about it.

I very much wish that the measures we are discussing today had been in place when I was a teenager, because those measures might well have prevented me from starting to smoke in the first place. Since they were not, I started smoking many years ago and I have struggled since to quit smoking. I am now winning the battle. I haven't smoked in months. But I can tell you firsthand just how difficult it is to quit and stay off of cigarettes. It is a fact that cigarettes are addictive.

We all know, again, that the tobacco industry knew full well that once young people started smoking, it would be very difficult for them to ever break the habit. Eighty-nine percent of all smokers begin smoking by the time they are age 18. People tend to start young. And eager to maintain its market, based on its own research—because they had a lot of money to put into research, population studies, and the like—the industry came along and specifically targeted children and young people in the hopes of creating lifelong addicts.

Its efforts have paid off handsomely. Today, more than 4 million American children and teenagers, including over 180,000 Illinois children and teens, smoke cigarettes. Seventy percent of Illinois high school students have tried cigarette smoking and about 35 per cent are current smokers. Teen smoking has risen for five years in a row. And if nothing is done, 5 million Americans who are now children, including over 260,000 Illinois children, will die prematurely from tobacco-related diseases. Illinois children and teenagers currently illegally purchase over 12.9 million packs of cigarettes each year, resulting in almost $25 million in cigarette sales.

This is a lot of money. That is one of the reasons this bill is so contentious, because there is an awful lot of money involved in this debate.

But tobacco products are responsible for enormous damage to all of our citizens, not just children. Twenty-three percent of Illinois adults are smokers. Smoking accounts for nearly one in five deaths in the United States. It is related to over 419,000 U.S. deaths each year and over 19,000 deaths in Illinois—more than alcohol, car accidents, fires, suicides, drugs, and AIDS combined. Approximately half of all continuing smokers die prematurely from smoking. Of these, 50 percent die in middle age, losing, on average, 20 to 25 years of life.

That is probably one of the reasons my teenage son, who is not a smoker, badgered me about smoking. I mean he was just relentless. He would take cigarettes and put them in the toilet so they would get wet. He would hide them. He would send me pictures of diseased lungs. He even started sending me pictures from National Geographic of spectrographic outlines of nicotine, the chemical component of nicotine. When it is put on the spectrograph, it looks like cigarette smoke. He thought this was hilarious. He was continuing to put pressure on me, and he succeeded. In addition to the fact that he would come up with all of the evidence, probably the most profound thing that he did was to say to me, ''Mom, I want you to live, because I love you.'' Of course, no dollar amount can you put on that kind of motivation. In part, I tried to stop. I have at this point stopped because of those motivations.

But, in addition to the terrible human costs, the American affair with tobacco—as some have said on this floor, our country was built with tobacco from our earliest years—has exacted an immense economic toll.

Tobacco-related illnesses cost the United States more than $144 billion a year in health care costs and lost productivity. Even though smokers die younger than the average American, over the course of their lives, current and former smokers generate an estimated $501 billion in excess health care costs.

So the smokers account for a large part of the tremendous cost of health care in this country as well.

On average, each cigarette pack sold costs Americans more than $3.90 in smoking-related expenses. Whatever the cost is of the cigarette that you buy, the taxpayers of this great country all have to chip in to try to take care of people like me who got addicted by these cigarette when they were teenagers.

We now have proof that the tobacco companies knew precisely what the impact of their products would be. According to their own internal documents, these companies hid the truth regarding both the dangers associated with smoking and the addictiveness of their products. They even went so far as to testify falsely to the Congress when questioned on these issues for years, failing to disclose and hiding at all levels of industrial espionage associated with keeping the truth from the American people. But it is out now. Everybody knows the facts pertaining to the impact of smoking and the addictive nicotine and cigarettes. It is not even a debate anymore. These are true facts. They are indisputable facts. So the question becomes, What is it that we policymakers are going to do about it?

It is time for the tobacco industry not only to be held accountable for marketing a product it knew to be unsafe but to assist in the effort to drastically cut the number of children who become addicted to cigarettes. While the bill now before us is far from perfect, on balance, I believe it offers us the only real chance we have to accomplish that goal.

The original Commerce-reported bill, in my view, offered too much liability protection for tobacco companies, and too little penalties for failing to meet the legislation's targets for reducing smoking among our children and teenagers. I am pleased, therefore, that the yearly cap on surcharges for the tobacco industry for not meeting underage user reduction targets has been raised to $4 billion. I also strongly support the new uncapped, company-specific surcharge of $1,000 per underage user in excess of the yearly reduction target.

I particularly want to commend the negotiators for removing the grant of total immunity to the parent companies and affiliates of cigarette manufacturers. Parent companies are where some of the most significant—and reprehensive—decisions have been made, and they are where the profits from the sales of cigarettes ultimately go. Those companies must be held accountable and under this new version of S. 1415, they are.

I also think the bill's treatment of the liability cap issued has improved. I remain very uncomfortable, frankly, with the provision currently in the legislation which may get amended, that caps the amount that the industry must pay out in any given year for past, present, and future damages resulting from the use of its products at $8 billion annually. I recognize that this cap was raised over the weekend from $6.5 billion, but I do not believe that the tobacco industry is entitled to any cap at all. That is why I will vote in favor of an amendment that will remove the that cap. because I just think that people who have been harmed ought to be able to sue and to be compensated. It is just that kind of basic. I don't think putting a cap on liability and a shield like this is good policy in this situation.

I am very much in favor of the decision to establish a Public Health Account within the unified trust fund. I believe that it is critical to target the money that the government will receive from this settlement, and strongly support the negotiators' decision to allocate 22 percent of the government's annual receipts to smoking education, prevention, and cessation programs as well as to counter-advertising initiatives. Nothing can beat education. I think the fact that we have true facts and we have educated so many people is one of the reasons there has been a change in the climate of opinion around the propriety and the acceptability, not to mention the dangers, of smoking.

I am also concerned, however, about the fact that this new $1.10 fee that consumers will have to pay every time they buy a pack of cigarettes will fall mostly on moderate- and low-income Americans. That argument has been raised here on the floor, and it is true. Almost half of the tax increase—whether you call it a fee or a tax it is still money on top of the price of cigarettes. Almost half of that increased burden will fall on Americans who smoke and who make less than $30,000 annually, and 70 percent of it will fall on American smokers who make less than $50,000 annually. That means that smokers making $10,000 or less —which is really poverty in this country—annually will see their Federal tax burden rise by an astonishing 44 percent.

The sad truth is that smoking behavior, the actual cigarette smoking, is disproportionately concentrated among moderate- and low-income Americans, and they are the ones being asked, frankly, to make the greatest financial sacrifice on behalf of our children and the public health. This fact gives me real pause. Frankly, I didn't think I would ever want to support—as a matter of fact, I tend to take a position against regressive taxes of this kind. Everything that I know about hard-working Americans who are of marginal incomes tells me that this tax will be tough for them to swallow. But at the same time, the truth is that smoking is voluntary behavior. So it is a tax you can choose not to pay—a fee you can choose not to pay—and it is precisely that decision that we are trying to inspire.

It is also true that we do not have hard evidence that the reductions that are called for in the bill, the reductions in smoking behavior by our children, will be guaranteed. We do not have guarantees about that. We do not know for certain that price increases, advertising limitations, and the other provisions of this bill will ensure without any doubt that children and teenagers will not smoke. Smoking rates among the young dropped during the 1980s, and they have climbed up again during the 1990s. Frankly, there is no real explanation for these trends except that it is a matter of popular behavior and kids doing as they see their friends and their pals doing and role models in their own lives. I am hopeful that this new fee will help make smoking less glamorous, less appealing, and will encourage young people not to waste that money on something that is ultimately hurtful to them as well as the community as a whole.

I have used the word ''hope.'' It is used a lot in this debate. Those of us who support the legislation are hoping that this bill will mitigate and reduce teen smoking. We are hoping that it will improve the public health. We are hoping it will help reduce the amount spent on health care. And these hopes, I think, are well founded and well represented in this legislation.

This bill represents a huge gamble that we should and must take. Given what we know about the risks and consequences of smoking, we cannot just sit by and do nothing; we have to act. We have to do everything we possibly can to discourage our young people from taking up this habit. We have a duty to our children, to all of our Nation's children, to do everything we can to help them stay away from the addictive effects of nicotine.

Mr. President, a strong coalition of health, public interest, and governmental organizations agrees and shares those hopes. A coalition of at least 48 major organizations including the American Cancer Society, the American Academy of Pediatrics, the American Medical Association, the Campaign for Tobacco-Free Kids, the Association of American Medical Colleges, and the National Association of County and City Health Officials, all of these organizations support comprehensive, effective tobacco control legislation.

Moreover, while it is impossible to be certain that maybe price increases will achieve the kind of reductions in smoking by children this bill sets out, the best experts in this area in terms of the relationship between price and behavior, including economists from the University of Chicago in my hometown and others in the administration, tell us that a quick, dramatic increase in the price of cigarettes will likely result in major reductions in teen smoking. So I am hopeful that despite my real concerns about the inadequacies of this bill in the liability area, my real concerns about the regressive nature of the tax involved, and my real concern that this bill does not ask the tobacco companies to endure the same kind of sacrifice that it imposes on their adult customers, I do intend to support the legislation.

It seems to me there is no other choice. As someone said to me—and I don't know whether it has been mentioned in the debate—if it is a tossup between death and taxes, I will take taxes. This is a situation where the choice is pretty clear, that we have an obligation to the public health and we have an obligation to our children to at least try to do what we can to erect barriers to the kind of destructive behavior cigarette smoking represents.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska is recognized.

Mr. HAGEL. I thank the Chair.

Mr. President, I rise this afternoon to reflect on some of the dynamics of the debate on the tobacco bill. I think it is important we as a body step back and focus on some of the various dynamics and the consequences of what we may or may not do as this debate goes forward. And it should go forward. Nobody disagrees with trying to reduce teen smoking. That is not an issue. We are all here to try to do the right thing. The focus on teen smoking, after all, was the core issue that really began this debate more than just a year ago.

I do not question the motives of my colleagues on either side of this debate. My colleagues on both sides of this debate are trying to do the right thing, trying to focus on making this a better world. I should also say, in the interest of full disclosure, I do not smoke, never have smoked, don't care about smoking. I think it is an unhealthy, bad habit, but at the same time I think we owe this country a good, honest debate about the issue from many of the dynamics, and certainly the constitutional dynamic of what we are about to do or may do is important.

I also think it is important for us to look at some of the societal and cultural consequences of this debate and of what action we may bring in the Senate over the tobacco bill, because if we do do something, it will have an impact on society, and it will have an impact far beyond just raising taxes and making government bigger, with more unaccountable regulations. This will have a very significant impact on our society.

I do fear, as I believe many of my colleagues fear, the great law of unintended consequences when we do not think things through very clearly. As we frame the debate, as we frame this issue, I fear that we are not including all that needs to be framed and debated here. As I have listened to and observed a number of presentations, all using statistics, information, and numbers, we pull them from everywhere. But the fact is, we do not have good, accurate information on this issue. I look at the number that is being used by almost everyone here, that this bill would reduce teen smoking by 60 percent. But where do we get the number? Where are we pulling our assumptions from?

I have here a copy of the New York Times story yesterday headlined ''Politics of Youth Smoking Fueled by Unproven Data.'' It has some interesting points. This New York Times article says, for example:

> But with the Senate having begun debate on Monday on tobacco legislation, many experts warn that such predictions are little more than wild estimates that are raising what may be unreasonable expectations for change in rates of youth smoking.

Another point in this article I think is pretty important.

Politicians and policy makers have tossed out dozens of estimates about the impact of various strategies on youth smoking, figures that turn out to be based on projections rather than fact.

''I think this whole business of trying to prevent kids from smoking being the impetus behind legislation is great politics,'' said Richard Kluger, the author of ''Ashes to Ashes,'' a history of the United States' battle over smoking and health.

He goes on to say:

It is nonsense in terms of anything you can put numbers next to.

This certainly does not minimize the seriousness of what we are about. It does not minimize the seriousness of teenage smoking, again, if that is the focus, if that is the reason in fact we are debating this.

Other assumptions that get thrown into this as well are somewhat faulty. We know that we are today debating a massive tax and regulatory bill, and we tend to glide over that. I will give you some statistics that actually are accurate from my State, from Illinois, Hawaii, and Massachusetts, four States that have raised—raised—cigarette taxes in recent years, and they have all seen teen smoking increase. In 1993, Nebraska raised the cigarette tax to 34 cents. The number of Nebraska teenagers who smoke increased by about 20 percent over a 3-year period.

Now, some might say, well, 34 cents is not enough; you have to raise it to where it really hurts. But I think we can understand and get some sense of focus that increasing taxes at least predominantly as the great dissuader of teenage smoking is far, far from being proven. USA Today had a very interesting front-page survey a couple of weeks ago in its newspaper, and it reported such things as, ''Only 14 percent of teenage smokers said higher cigarette prices would make them quit.'' The same survey in the USA Today said only 12 percent believed requiring a photo ID to prove they are adults when buying cigarettes would make them quit.

Another dynamic of this debate, which again seems to get very little attention, is, How would this change the power of the Federal Government? Would it increase unaccountable, essential unaccountable Federal regulation through the Food and Drug administration? Yes. Considerably. It would give the Food and Drug Administration unprecedented authority to regulate as yet still a legal product. Now, if this body really is as concerned about tobacco as we are representing, why don't we have the guts to just step up and ban tobacco as an illegal drug? Why don't we do that? Why don't we be honest enough about this issue to bring it down here and debate it and say we are going to ban tobacco and say it is an illegal drug? Or let's nationalize the tobacco companies?

The point is that we are not being totally honest with what we are doing. Where will the money go? The numbers float around. Is it a $565 billion bill? Is it a $750 billion tax bill? Where is this? We do know it is in the hundreds of billions of dollars. We do know that. Where is this money going to go? Where is the money going to go? Because we also know that all that money, whether it is $500 billion, $600 billion, $800 billion, can't possibly be used for teen smoking programs. So, does that give us some impetus to tax more and to do more and, therefore, find, at the end of the rainbow, a pot of gold? More Government programs, more Government, more bureaucracy, more regulation. I think that is an important dynamic of this debate. Higher taxes, obviously. Nobody has yet denied that. Nobody has denied, yet, that we are, in fact, increasing taxes. Not just increasing taxes but we are really increasing taxes by a new dimension here.

Where does that money go? For example, we do know somewhere, in all these bills out there, there is a figure we can get pretty close to focusing on, that, over the next 8 years, at a minimum, we would be raising about $130 billion in new taxes.

There are some constitutional issues, believe it or not. Again, let's face the facts here. What we are doing here, we are expropriating a legal industry. We are expropriating a legal industry for the first time in the history of America. I said at the beginning of my remarks that I don't smoke. No one can come to the floor of the Senate and defend the tobacco companies' conduct, their behavior. It has been outrageous. That is not what this debate is about. Let's not get ensnared in the underbrush of that debate. Let's be careful here how we frame the debate.

Nobody that I know of is on the floor of the Senate defending the tobacco companies. That is not the issue. We are defending some constitutional rights here. We are defending the honesty of how we are getting at this issue. Again, if we wish to take tobacco and criminalize it, that is certainly an option. If we go forward and do what some in this body intend to do, and want to do, essentially expropriating a legal industry, then what kind of precedent does that set? I think, first of all, constitutionally it would be out, but what kind of precedent does that set? Who is next? Caffeine? Diesel fuel? Who is next? That is another consequence, another dynamic of this debate on which we should reflect.

Just one example of a constitutional question is—I think we all understand it does raise some very serious constitutional questions. For example, the Federal district court in North Carolina ruled that the FDA cannot restrict advertising and promotion of tobacco products. We have a legal system for this. We have a legal system that works pretty well in this country. It has worked over 200 years.

Again, this is not a matter of defending the tobacco companies. That is not what this is about. This debate, parts of it, remind me of other debates we have been engaged in about the environment or religious persecution. I do not know one Senator who wants dirty air and dirty water and a dirty environment. Nor do I know one Senator who supports religious persecution. It is always a matter of how you improve it, not either/or. This is a good example of that kind of debate.

Black market—my friend from Texas talked a little bit about that an hour ago. It is a very, very real concern, a very real issue. For example, after increasing its cigarette taxes in the late 1980s, Canada saw a huge increase in the black market for cigarettes. By 1994, one-third of the Canadian cigarette market was contraband. Is that where we are headed here? We need to talk about that. It isn't just Canada. How about Sweden? Recently, Sweden lowered its cigarette tax by 27 percent to reduce smuggling from Denmark. England estimates it loses over $1 billion in tax revenue every year because of smuggled cigarettes.

My friend from Montana, Senator BURNS, tells me the biggest export in Montana is—wheat? No, it is contraband going to Canada, illegal cigarettes—another dimension of this that we need to be very seriously looking at, the consequences of a well-intentioned action.

The State of Washington estimates that 27 percent of its cigarette market is now contraband—that is now. The State legislature moved the enforcement power of the cigarette tax from the State revenue department to its liquor control board, ''whose agents carry guns and have complete police powers.'' Is that a consequence we want from this?

Personal responsibility—my goodness, my goodness. The very foundation of this Nation is rooted in personal responsibility. Where has been the debate on this issue about personal responsibility? There was a lot of debate about blaming everybody for one's actions. It is the Army's fault. It is the Army's fault that I started smoking. It is the Government's fault. It is the tobacco company's fault. It is everybody's fault, except mine.

What does that say to our young people? Why have I not heard any connecting issue or debate in all the debate that has raged on so far about personal responsibility—consequences for one's actions? Our young people need to understand that actions have consequences. They need to understand that. Yes, we need to help them. Yes, we need to protect them. But that should be part of the debate, talking about personal responsibility—not that it is everybody else's fault. That is a dynamic of this.

Mr. HARKIN. Will the Senator yield on that point?

Mr. HAGEL. I will be very happy to yield when I finish. I thank the Senator.

The Federal Government, no government, can tax or regulate young people's behavior. That is silly. That is complete folly. Come on. How many

parents do we have in this body? How many people in this body have dealt with young people? I suppose everybody in this body remembers when they were 16, 17, 18—and you believe that the Government is going to regulate behavior and change behavior? We are going to make everybody's lifestyle healthier? That is another dynamic that has not been debated in this.

Ignoring other problems—isn't it interesting that the real problems in this country for young people, far more severe and far more immediate, are with illegal drugs and underage alcohol use, but, yet, we are not talking too much about those issues today. Why aren't we? Because we are losing the illegal drug debate and war. More young people today are on illegal drugs than before. It is a tougher issue. It is everybody's concern. But we beat our breasts down here and say, aren't we doing something great because we are going to take care of underage cigarette smoking.

By the way, you can look at numbers and polls on this. I know they all have them, and I have one done by Citizens for a Sound Economy, May 13 to 15 of this year, asking 1,200 Americans, as parents, what their biggest concern for teenagers is. No. 1, illegal drug use, 39 percent; gangs, 16 percent; alcohol, 9 percent; tobacco use, 3 percent. Again, does this diminish the importance of this issue? No, of course not, but let's have some perspective in this debate. And there are other problems that young people face. We have numbers from polls and from very conclusive studies that show what I am talking about.

Let me conclude, Mr. President, with a couple of final observations.

There is an interesting thread of arrogance that has run through this debate: Government is smarter; we can tell you what to do; you really don't understand the seriousness of tobacco use; you are not smart enough to sort it out yourself; but you see, we are in the Congress, we will tell you when something is dangerous and when it isn't; you can't read; you don't understand, I am sorry.

We can have that kind of society. We can have that kind of a world. Some countries do. But if that is what you opt for, you will opt for also giving up some personal freedom, some personal responsibility, and it might be a better world that way. But that is another part of this debate we haven't heard enough about, and it should be part of it.

As I said in my earlier remarks, all my colleagues mean well. They are well motivated, they want to make the world better, they want to do the right thing. There is no question about that. But I hope they will think for a few moments about some of the issues I have raised as we step back for a moment and try to put in perspective what we are doing. Are we really making the world better and accomplishing what we want to accomplish, focusing on teenage smoking, underage smoking, which, by the way, there are now laws on the books to deal with? Are we making it better by putting hundreds of billions of dollars of new taxes on our people, building a bigger Government and more programs and more regulations, and then on top of that, having to deal with the unintended consequences of our action that will affect culture and it will affect society? Those are all part of the total debate, Mr. President, that should be brought into focus.

I will vote against this bill, because I think it is not the right way to deal with some very serious problems.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, there are two unanimous consent requests to be made. Senator HARKIN briefly has one.

Mr. HARKIN. I thank the Senator for yielding. Mr. President, parliamentary inquiry, I understand the Senator from Rhode Island is speaking next under a unanimous consent agreement, and after that is Senator HATCH?

The PRESIDING OFFICER. Senator HATCH.

Mr. HARKIN. I ask unanimous consent that after Senator HATCH, the Senator from Iowa be recognized to speak.

Mr. MCCAIN. I object. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Rhode Island still has the floor.

Mr. CHAFEE. The Senator from New Hampshire has a unanimous consent request to make.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 98, the adjournment resolution. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 98) was agreed to, as follows:

S. CON. RES. 98

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, May 21, 1998, Friday, May 22, 1998, Saturday, May 23, 1998, or Sunday, May 24, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, June 1, 1998, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, May 22, 1998, or Saturday, May 23, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, June 3, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

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

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

AMENDMENT NO. 2433

Mr. CHAFEE. Mr. President, let me offer a few thoughts on why I believe the amendment authored by my good friend from New Hampshire, Senator GREGG, should be rejected.

Senators TOM HARKIN, BOB GRAHAM and I struggled with the liability issue when we were developing our own antitobacco bill, the so-called KIDS Act. We began our deliberations with a review of the global settlement that was reached by the 40 attorneys general from the various States. In summary, we concluded that we could not support some of the provisions of that legislation; namely, the prohibition on class action suits.

The attorneys general agreed that no class action suits would be permitted and there would be a ban on punitive damages against the industry. That is what the industry got out of the negotiation with the attorneys general, amongst other things.

Given the tobacco industry's behavior, how could we, the three of us working on that legislation, possibly accede to tort protections that would nullify entire categories of lawsuits, leaving injured parties high and dry?

But there were balancing factors which also had to be weighed, Mr. President. The industry's consent is terribly important to the implementation of a comprehensive national tobacco policy. It is far better to have the industry at the table and agreeing.

Certainly, endless litigation serves no one's interests but the lawyers. Thus, something had to be done to create a more certain environment, both for the plaintiffs and for the tobacco companies. Hence, we decided to include an annual liability cap in our bill of $8 billion; $8 billion would be paid out each year and that was it. If there were subsequent suits and judgments had been brought and earned previous thereto or subsequent, they would fall in line and collect in the ensuing years.

While the structure of the cap in Senator McCain's bill is somewhat different than the cap we had in our bill, nonetheless the intent is the same. The cap in the McCain bill does not stop a single lawsuit. It doesn't prevent a single lawsuit from being brought. It doesn't stop one injured party from being able to collect. Moreover, only those tobacco companies that accept and abide by the terms of this bill will be able to obtain the financial predictability that is provided by this liability cap. In other words, the company doesn't get the cap unless it agrees to a series of requirements upon the companies or company that we believe are very important to reach a fine settlement.

What are some of these? What do the tobacco companies have to do to be eligible for a so-called cap? It must sign a national protocol, a binding consent decree to assure it will abide by all terms of the McCain bill. It must agree not to delay its implementation through endless court challenges. These terms they must agree to, amongst other things, are: They must make very steep annual payments to the Federal Government. They must meet tough annual youth smoking reduction targets. In other words, there are percentages that youth smoking must go down each year. The companies have to meet those requirements. It obviously encourages them to come forward with ingenious stop-smoking efforts or cease from smoking or decline from taking up smoking. They must pay large fines if they fail to meet these goals.

What they also agree to is to fundamentally alter the way the tobacco products are manufactured and distributed, and they accept the regulation of tobacco products by the U.S. Food and Drug Administration, so-called FDA.

If tobacco companies fail to abide by the terms of this bill, they are not going to be eligible for the liability cap. The liability cap is something that helps the companies reach some certitude of what their payments are going to have to be. But if they don't meet these terms, they lose the rights under the cap. If they fail to meet the annual youth smoking reduction targets by more than 20 percent in any given year, they lose the protection of the cap. If they are caught evading the antismoking provisions, they lose the protection of the cap. So this isn't some giveaway to the tobacco industry. It is a necessary trade-off to obtain a strong national tobacco control policy.

At the end of the day, when all is said and done, we hope the tobacco industry will return to the table and sign the consent decrees which will accompany this bill. If the Gregg amendment is adopted, it reduces, obviously, the chances for that occurring.

What is the incentive for a tobacco company to come to the table if they lose even this cap protection? If we all are for obtaining the strongest possible antitobacco policy, then we ought to vote to table this amendment; that is, the amendment of the distinguished Senator from New Hampshire.

President Clinton supports the cap, as do many others who want a tough national policy to discourage youth smoking. Giving some predictability to tobacco companies who are willing to change the way they do business, it seems to me, is a small price to pay to get them at the table and participating in implementing these tough policies—indeed, the advertising policies to cease certain types of advertisements and to enter into other kinds of advertisement directed toward encouraging young people to give up smoking or to deter them from taking it up in the beginning.

So, Mr. President, I believe that the cap is a very worthwhile part of this McCain bill. And I urge my colleagues to reject the proposed amendment.

I thank the Chair.

Mr. MACK. Mr. President, there are few industries I consider more vile than the cigarette manufacturers. I believe they lied to the American people and knowingly addicted millions to their harmful product. It is with this disgust and anger in mind that I encourage my colleagues to vote against the Gregg Amendment.

Although at first blush it may seem the ''right'' thing to strike the liability cap if we want to punish the tobacco manufacturers, in effect we will have done exactly what they want us to do: Kill the bill. We should first ask ourselves what we are trying to accomplish with this legislation: Reduce teen smoking, fund worthy tobacco-related programs while holding harmless innocent parties such as farmers. Would the Gregg Amendment further any of those goals? No.

The provision stricken by this amendment does not grant immunity to anyone, rather it sets a yearly cap on what they will pay and allows us to charge fees, put in place advertising restrictions and conduct strict oversight. In essence, it keeps the companies out of bankruptcy thereby allowing us to keep a close eye on them and force them to undo some of the damage they have done. The liability cap of $8 billion per year cuts off no one's rights or payments, other than for those who want to settle their claims. Taking it away would likely result in many aggrieved parties going unpaid because the companies would file for bankruptcy protection, effectively shutting out meritorious plaintiffs from recovery.

For those of my colleagues worried about the tax burden imposed by tobacco legislation, I would think they would all vote against this amendment as well. If the Gregg Amendment is passed and the liability cap stricken, the fee would then become a pure tax and the overall tax burden on the American public would likely double. Here's why: The current bill would then not settle any state lawsuits, but rather simply impose a tax of at least $1.10. Because those state suites would continue, and likely be successful or settled, we should expect that the states will begin to impose their own taxes on tobacco. That means we see a $2–3.00 per pack increase in taxes—which is outrageous. In short, if you want to do nothing but tax and spend, vote for the Gregg Amendment. If you actually want to try and solve some of the problem of reducing teen smoking you should vote against it.

Mr. HARKIN. Mr. President, we are engaged in a historic debate and action on a plant that brought death and disease to millions of people in this country for 300 years. The outcome of our work will determine whether this nation moves to a sensible tobacco policy that will prevent the premature death of millions of our children or continues on the path of death and disease.

This is truly a historic, once in a lifetime opportunity to save lives and protect children. When else have we had legislation before us that truly could save millions of American lives? It is an opportunity I've been working towards since 1977 when I first introduced legislation to end taxpayer subsidies to tobacco advertising.

The need for bold action couldn't be clearer. Today, as in any other day, 3,000 children in America will take up a deadly habit that will cut 1,000 of their lives unnecessarily short. That's more than 3 jumbo jets full of children crashing every day. And the problem is getting worse. Smoking among high school seniors is at a 17-year high.

It is not reflected in this chart, but the CDC just reported that the percentage of high school students who smoke has increased from 27.5 percent in 1991 to 36.4 percent in 1997. They further found that a shocking 42.7 percent of students—and these are kids generally between 14 and 17—used cigarettes, smokeless tobacco or cigars in the past 30 days. We also know that the vast majority—fully 90 percent—of adult and lifelong smokers begin at or before their 18th birthday.

We can change all that. We know the key ingredients to reducing teen smoking. We know that a comprehensive set of reforms is needed. We need solid authority and resources for the FDA to oversee tobacco products. We need an aggressive education and counter advertising effort. We need community-based prevention. We need to expand our research. We need to have strong financial incentives for tobacco companies to take every action to cut teen smoking. And, most importantly, we need to price cigarettes out of the range of children.

Every major public health expert agrees that the single most important component of a comprehensive strategy to cut child smoking is a sudden and significant price increase. This is the centerpiece of S. 1889, the KIDS Act, I introduced with Senator JOHN CHAFEE and Senator BOB GRAHAM. Our bipartisan legislation provides for a

$1.50 increase in the per pack price of cigarettes—$1.00 the first year and another 50 cents the next.

As Dr. C. Everett Koop and Dr. David Kessler said, this proposal is ''tough medicine for a tough problem.''

Our approach, according to the CDC and other experts, would cut smoking by children in half, over the next three years. That's the sharpest and fastest reduction achieved by any bill proposed to date.

The bill before us, as reported out of the Commerce Committee, has a number of commendable features. In many ways it is very similar to the Harkin-Chafee-Graham KIDS Act. It has strong FDA provisions, strong public health provisions and its look-back and liability provisions have been substantially improved. We are very pleased that much of our work is reflected in the bill and we commend Senator MCCAIN for his good efforts.

However, on the crucial question of price, the bill is inadequate. The bill would increase the price of a pack of cigarettes by $1.10 over 5 years. To have the greatest impact on teen smoking the price should be increased by at least $1.50 a pack over a very short period of time.

I will be doing everything, working with my colleagues, on a bipartisan basis, to correct this fundamental shortcoming of the pending measure.

While I'll have a lot more to say about many aspects of this legislation, I want to focus the remainder of my remarks today on this critical issue of price. I do this not only because it is the most important feature of the legislation, but because it has been the focus of an onslaught of misleading television, radio and print ads as well as statements and mailings by the tobacco industry in my state of Iowa and around the nation.

The tobacco companies have been making a number of false arguments about the impact of increasing the price to cut down on teen smoking. Most disturbing have been their statements that teens don't respond to price increases—that increasing the price won't have an effect on the rates of underage smoking.

These accusations are not only run counter to the finding of every major public health organization and countless economists and studies, they contradict the industry's own internal documents and analyses that they tried to hide from the American people for so long.

Many studies published in respected journals have clearly documented the impact of price increases on teen smoking. The most recent estimates from the CDC is that for every 10 percent increase in the real price of cigarettes, the prevalence of teen smoking is cut by 7%.

In its report this year, Taking Action to Reduce Tobacco Use, the Institute of Medicine of the National Academy of Sciences concluded that ''the single most direct and reliable method for reducing consumption is to increase the price of tobacco products. . . .''

In 1994, the Surgeon General's report Preventing Tobacco Use Among Young People concluded that increases in the real price of cigarettes significantly reduces cigarette smoking and that young people are at least as price sensitive as adults.

And we have to look no further than our neighbors to the north—Canada—to find a real world example of the impact of price increases on teen smoking. As this table shows (attached) when real prices in Canada increased from $2.09 to $5.42, the number of 15–19 year olds smoking fell from 42 percent to 16 percent—a drop of 62 percent. However, when tobacco taxes were reduced, youth smoking began increasing after 15 years of decline.

As I said earlier, in addition to the abundant evidence on youth smoking and price, the tobacco industry themselves have admitted this in a number of their internal documents. For example, a 1981 Philip Morris document said, ''In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers. . . .''

A 1987 Philip Morris document further details their knowledge and concern about the relationship to price and hooking kids as the next generation of smokers. The document says:

> You may recall from the article I sent you that Jeffrey Harris at MIT calculated, on the basis of Lewit and Coate data, that the 1982–83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke. Those teenagers are now 18–21 year olds . . ., 420,000 of the non-starters would have been PM smokers. Thus, if Harris is right, we were hit disproportionately hard. We don't need to have that happen again.

A 1982 RJR Reynolds document—that I ask unanimous consent to have included in the RECORD at this point—states clearly that an increase in the price of cigarettes will result in ''thousands of new smokers lost.'' This document says that a 15.1 percent increase in the real price will result in the loss of 93,000 ''new smokers'' aged 13 to 17 years old.

So when the tobacco companies now argue that increasing the price of tobacco products won't impact youth smoking—they are once again blowing smoke. They are once again trying to deceive the American people.

So, Mr. President, we have important work to do this week. We have the opportunity to do a lot of good and strike a blow for our children and for public health. I look forward to working with my colleagues, on a bipartisan basis, to seize this opportunity.

Tobacco reform is the issue of 1998. It is the crown jewel of this Congress. And passing a strong comprehensive tobacco bill is an opportunity we simply can't let pass by.

Unfortunately, victories in the tobacco wars have come few and far between. In 1988, we finally changed Federal law on smoking in airplanes. It was a full ten years later, and after failing one time, the Senate took its next step last September by passing the Harkin-Chafee plan to fully fund enforcement of the FDA youth ID check.

But I am more hopeful now than ever that we can pass a comprehensive plan that would once and for all change how this nation deals with tobacco and dramatically cut the number of our kids addicted to this deadly product. Mr. President, our goal is to be on the Senate Floor three years from now announcing that indeed, child smoking has been cut in half. We should all put our energies into making that happen.

Mr. FRIST. Mr. President, I rise to speak about the pending tobacco legislation. I am concerned that we have gotten off track in our consideration of comprehensive tobacco legislation and the importance of preventing children smoking.

Our focus must be youth smoking.

In an earlier speech on this floor, I reminded my colleagues of some of the alarming statistics about youth smoking. I will not dwell on all of those statistics; however, it is important to remember that 3,000 kids will start smoking today, and 1,000 of those children who start smoking over these 24 hours will die prematurely. Our purpose is to prevent these deaths.

I urge my colleagues to focus on the health of our children, and their children—to keep in mind youngsters traveling that tricky path from childhood to adulthood, surrounded by temptations and convinced of their own invincibility. What can we do to make it more likely that these children will arrive at adulthood without crippling addictions?

Mr. President, before answering that question and discussing the pending legislation, I want to pause and recall some recent history that helps explain how we have reached this point in the legislative process.

For many years, individuals were not successful in suing the tobacco industry because of the ''assumption of risk'' doctrine. No jury would side with the plaintiff because the smoker assumed the risks associated with smoking. However, a group of State attorneys general got together and started suing the industry to recover Medicaid cost for smoking related illness, thus avoiding the ''assumption of risk'' doctrine.

In the course of these lawsuits, internal industry documents were made public. From these documents, we learned that the Industry knew a lot more about the addictive nature of nicotine and the destructive effects of smoking tobacco than was previously thought.

Some states began to settle for huge sums from the tobacco industry. Mississippi settled in 1996 for $3 billion. Florida and Texas were the next to settle, for $11.5 billion and $15.3 billion respectively. And, as we have all read in the last week, Minnesota is the most recent to settle—at $6.6 billion.

In the spring of 1997, everyone came to the bargaining table —40 attorneys general, the industry, members of the plaintiffs' bar, and public health groups. They all sat down and worked out an historic tobacco settlement on June 20, 1997. The basic elements of the June 20th settlement included:

Industry payments of $368.5 billion over 25 years—to be funded by raising the price of cigarettes by $.70 per pack over 10 years;

Advertising restrictions—the industry voluntarily limited its First Amendment rights;

Youth access provisions and tough licensing for retailers who sell tobacco;

$2.5 billion per year for smoking cessation programs, public education campaigns and state enforcement;

FDA authority to regulate tobacco and smoking;

No class action suits or suits by any government entity;

Immunity for the industry from all punitive damages for past actions; and

Individuals were allowed to bring suits to recover compensatory damages for past conduct and compensatory and punitive damages for future conduct.

Because the settlement required the enactment of federal law, it came before Congress. We are here because the June 20th settlement requires us to be here. Implementing the provisions of that settlement, or provisions similar to it, requires federal legislation.

As we all know, several committees had jurisdiction over different provisions in the June 20th Agreement. Judiciary obviously had its role; the Labor Committee had its expertise in the public health programs and the FDA authority; Finance had jurisdiction over international trade aspects; Commerce, the liability and interstate commerce expertise; and the Agriculture Committee had a keen interest in the effects this type of unprecedented legislation will have on farmers—the one group not invited to the bargaining table during settlement negotiations.

After months of work, it became clear that it was impossible for all of these committees to put together their respective pieces of a comprehensive package in a vacuum. The Majority Leader asked Chairman MCCAIN to take on the herculean task of crafting comprehensive legislation to address underage smoking through the Commerce Committee.

The bipartisan bill produced by Senator MCCAIN and the Commerce Committee is by no means perfect. Even Senator MCCAIN admits that. But it is important that we not lose sight of the Commerce bill's virtue: it is a comprehensive approach. It is vital that the United States Senate address children smoking in a timely, thoughtful manner—the Commerce bill gives us the structure for doing this.

I return, then, to our central legislative focus: preventing youth smoking. After 6 hearings in the Labor Committee, 11 hearings in the Commerce Committee, and chairing a hearing on October 27, 1997 in my subcommittee on Public Health and Safety, I am convinced that the goal of cutting underage smoking in half over the next 10 years can be achieved only by a three-component comprehensive strategy. All three parts are necessary. No single part will accomplish this goal.

1. First, we must address advertising targeted to children. An article in the Journal of the American Medical Association reported on February 17 that advertising is more influential than peer pressure in enticing our children to try smoking, and it estimated approximately 700,000 kids a year are affected by advertising. The industry cannot continue to target kids, our society must stop glamorizing smoking on television and in the movies, and we must restrict advertising at sporting events and near our schools.

We tell our kids not to smoke, but then we look the other way when retailers sell to kids. We tell our kids that tobacco will shorten their lives, but clever advertising drowns out our message. So, we must restrict tobacco marketing that appeals to kids, but I know that the industry, like all industries marketing legal products, has substantial First Amendments rights that must be respected.

2. The second element of a comprehensive program is that there must be strong, effective public health initiatives, including tobacco-related research, treatment and surveillance. A bold effort is necessary to keep people from starting to smoke and to help people stop smoking. A strong commitment to basic science and behavioral research is critical. We need the very best scientific research on the physiology of nicotine addiction.

Such focused research made possible by this bill might even uncover a pill that eliminates the addictive nature of nicotine. Such a discovery alone would solve the destructive aspects of youth (and adult) smoking. This type of research might have benefits beyond tobacco; it also could be vital in our fight against substance abuse more generally.

3. Access is the third element. We must attack how easy it is for kids to get their hands on tobacco products. States must enforce the laws against youth smoking. Retail outlets must be a partner in our efforts to stop youth smoking. We must make vending machines far less accessible to kids. The price of cigarettes must go up—enough to discourage a teenager from purchasing, but not enough to create a black market—and there must be consequences for the underage teenagers who are caught with tobacco products.

As Chairman of the Public Health and Safety subcommittee, I heard chilling testimony from teens about how easily they purchased tobacco products. Nickita from Baltimore, now 18 years old, started smoking when she was 14. She testified that she would normally get her cigarettes from the store. She testified that she never had a problem buying cigarettes in the store, in fact, ''people in my community as young as 9 years old go to the store and get cigarettes. They do not ask for I.D.s.''

The lesson I learned from this testimony: We must enforce youth access laws. We must make it impossible for children to buy cigarettes in any neighborhood in this country. It is shameful that in America in 1998, a teenager can purchase tobacco in any of our neighborhoods.

Price is also a factor in access. While it is obviously only one of many factors, price does affect the level of a product's consumption. Consumption had been decreasing in the 1970s; however, between 1980–1993 the downward trend accelerated, with consumption falling by 3% a year at the same time that the inflation adjusted price of cigarettes increased by 80%. In addition, the early 1990s saw price cuts, and consumption leveled off with only modest decreases in price until 1996. Then, in 1997, prices rose by 2.3%, and consumption fell again by 3%.

Expert testimony, based on data from this country and others, clearly demonstrates that the price of cigarettes affects consumption. But a higher price alone won't solve this problem; a comprehensive solution is necessary.

Mr. President, I believe the Commerce Committee's bill is a good start toward addressing all three aspects of a comprehensive package: advertising, public health, and access. It also addresses an issue ignored by the June 20th settlement: tobacco farmers. These farmers were not at the table during the negotiation of the June 20th agreement. The industry ignored them. The attorneys general ignored them. Yet these hardworking men and women bear absolutely no responsibility for ads targeting kids or for underage sales. These men and women work hard for modest incomes, and we cannot ignore the impact that this legislation will have on their circumstances. The Commerce bill tries to rectify this oversight.

So, the Commerce bill addresses the three areas a comprehensive approach must include, and it protects tobacco farmers. That does not make the bill ideal. It is by no means perfect; however, it is not necessarily guilty of all the charges lodged against it.

Some urge that the bill is merely an attempt to destroy an industry that is producing a legal product, by raising the price too much. This is a legitimate concern. Are the numbers in the Commerce bill too high? We have had countless numbers of financial experts come before several of the committees of jurisdiction, and no one agrees on the answer to this question. Wall Street, the Treasury Department, and public health groups all have different levels.

We do know one thing: the industry agreed to $368.5 billion in exchange for some assurances that they were immune from future cost of unpredictable

lawsuits. Maybe the Commerce bill's figure of $516 billion is too high without similar assurances of protection. The industry obviously feels it is. But we know we cannot always trust the industry. I hope that, through our debate here, we can find common ground on the issue of the tobacco industry's payments.

I do not believe that those who support a comprehensive solution to teen smoking are trying to destroy the industry. Tobacco products are legal to manufacture and consume. We are engaged, however, in the tricky exercise of finding a price level that will help diminish teen consumption without bankrupting the industry or creating a black market. I am confident that we can work together in good faith to find that price.

I am gratified that the Senate rejected Senator KENNEDY's amendment, which would have treated industry payments as an excise tax of $1.50 per pack. This $1.50 tax was too much. The proponents were no longer as concerned with a comprehensive program targeted at preventing children from smoking as they were with enacting an excessively punitive excise tax, which would have punished smokers—who we need to be helping—and hit the working poor the hardest.

There is a temptation, especially among those who are always searching for revenue streams, to seize upon the opportunity of an excise tax to raise vast amounts of funds for other initiatives. We should be guided by health objectives and not by the search for revenue streams. The funds generated by the agreement should be used for tobacco related and health related activities—not the creation of new entitlements.

Mr. President, let me also address a related issue the tobacco industry is raising: Is the Commerce bill just a big tax bill? I find the industry's complaint that it is somewhat ironic. As I already noted, the industry volunteered to make over $368 billion in payments—all passed on to the consumer—as part of the July 20th payment. The industry called that payment a ''voluntary payment.'' That level was simply not enough; for one thing, it did nothing for the tobacco farmer, who was abandoned by the industry. Something more than $368 billion was necessary.

Yet now the industry complains that the entire amount of the payments included in the Commerce bill is a ''tax.'' Maybe, as I said, the Commerce bill's payments are too much. But it is disingenuous for the tobacco industry to now contend that the payments are all a tax; they came to us and sought our legislation, and they volunteered over $368 billion. We upped the ante a bit—in large part to protect farmers—and now it's suddenly a giant tax. We cannot treat this argument too seriously.

I want to emphasize how much more effective we can be with a settlement. We must have an industry that doesn't market to kids—a settlement gets us that—a price increase alone does not. Without the cooperation of the industry, there is no doubt that this bill will be held up in the courts—putting us years behind in our effort to reduce smoking. The industry does have First Amendment rights, and it can exercise them.

I invite the industry to come back to us and provide us with credible information about the level of payments they can afford. The industry can work with us to prevent youth smoking—or it can distort the record and continue to be vilified in the public eye. For the sake of stopping children smoking, I prefer that the industry rise above causing the problem of youth smoking and be part of the solution.

Some have charged that the Commerce bill is too bureaucratic. I believe that our families, communities and states should be empowered to fight teen smoking in the manner most suitable for the concerns of that state or community. We don't need big federal government structures to achieve our goal. The Manager's Amendment to the Commerce bill has done a good job of streamlining the bureaucracy it originally created. I am especially supportive of the increased empowerment and flexibility given to the States for the use of funds and for control over the public health initiatives.

Having said that, a comprehensive approach to prevent youth smoking isn't a simple undertaking. If we are after results, there must be a structure in place. I believe that we can effectively and efficiently use existing structures, in conjunction with the States, to have a comprehensive approach. Indeed, I played a crucial role in helping draft those portions of the Commerce bill dealing with the Food & Drug Administration. These provisions have earned widespread support, and I spoke on the floor Monday to explain them. They prove that we can use an existing agency to implement commonsense regulations to reduce youth smoking.

Another criticism of the Commerce bill concerns the possibility that it may create a black market. We should be realistic about the possibility of a black market. If we create a black market by raising the price too high—as was done in Canada—then we will lose all control over youth access. Again, this is one reason I voted against Senator KENNEDY's $1.50 per pack tax. Instinctively, and based on testimony to the Commerce Committee, I believe that price level is too high.

In short, Mr. President, I do have concerns with some parts of the Commerce bill. For this reason, I will be open-minded in considering amendments to it. The Commerce bill is a good starting point, but it is only a starting point. We can and should improve on it—as long as we do not lose sight of our ultimate objective: a comprehensive approach to prevent teen smoking.

The single criterion I will employ in assessing the amendments that come before the Senate is this: Is the amendment likely to complement a comprehensive strategy to prevent teen smoking? In other words, does it help restrict advertising targeted at children, promote public health, and address access to tobacco? If so, I will consider it; if not, I will reject it.

I respectfully suggest, Mr. President, that my colleagues keep the same focus. Rather than attempting to treat the tobacco bill as a new revenue stream—like my colleagues who want a $1.50 per pack excise tax—and rather than treating the bill as a chance to create many new federal programs, I urge my colleagues to focus on the children who will start to smoke during this debate. One-third of those children will die prematurely because they started to smoke. We must focus on stopping them from smoking.

Four years ago, I was saving lives as a heart and lung surgeon. I saw the ravages of tobacco in the operating room. The people of Tennessee elected me to use common sense to advance the public good. I submit that crafting a comprehensive approach to keep children from smoking is a chance for the Senate to save lives through the exercise of common sense. I urge my colleagues not to stray from that goal.

Mrs. MURRAY. Mr. President, we are engaging in one of the most important public health debates of this generation. We have a historic opportunity to enact a comprehensive, national antitobacco strategy to end the plague of death caused by smoking. As I listen to the debate here in the Senate I am discouraged by much of what I hear. This is not about taxes, or tax cuts. This is not about what the tobacco companies get or don't get in the deal. This is not about First Amendment rights or increased litigation. This is about one thing and one thing only. Will we stand up to the tobacco companies for our children?

Will the U.S. Senate say enough is enough. Will we fight to prevent the deaths of five million children under age 18 who will eventually die from smoking-related disease? Or will we allow the tobacco companies to shape the debate and beat back our efforts to protect children. Today, 4.1 million children age 12 to 17 are current smokers. Isn't this enough for the tobacco industry? Are we going to sacrifice more of our children?

I have listened very carefully to all sides on these issues. I have been told that a tax that is too high will bankrupt the industry. I have been lobbied by many claiming that without special deals, the tobacco companies will not agree to restrict advertising or will litigate this legislation to death. But, I have also heard from pediatricians; public health officials; former Surgeon General C. Everett Koop; and many Washington State members of the American Cancer Society, who have expressed their concerns by illustrating

the human costs of the lies and deceit utilized by the tobacco companies.

Tobacco kills more than 400,000 Americans every year. More people die in this country from smoking related illness than from AIDS, alcohol, car accidents, murders, suicides, drugs and fires. Twenty seven percent of Americans who die between the ages of 35 and 64 die from tobacco-related diseases. Isn't this enough? Why has it taken us so long to get to this point of the debate? 400,000 Americans die each year while we do nothing.

We owe our children more. I owe the children of Washington State more. I have an obligation to push for the toughest tobacco bill possible. I can promise you that on my watch the tobacco companies get no special deal and that protecting our children is what controls the debate. It is not what can the tobacco companies live with, but is right for our children.

The tobacco bill that I support will have economic sanctions that will force corporate culture changes by the industry. I will support efforts that penalize the companies if they continue to prey on our children. And I will not support anything that forgives an industry that sold a product that could potentially kill five million children alive today.

I have made some difficult decisions and votes throughout this process. But, I am proud of my votes to increase economic barriers to prevent children from purchasing cigarettes. I know the tobacco companies hate these kind of barriers. As we discovered in an internal Philip Morris document from 1981, ''In any event, and for whatever reason, it is clear that price has a pronounced effect on the smoking prevalence of teenagers.'' There is no dispute on the sensitiveness of children to price increases. Both public health advocates and the tobacco companies agree. The public health community supports these barriers and the tobacco industry fears them. But some in the U.S. Senate disagree that price matters. I stood up and said no you will not addict 3,000 children a day with cheap cigarettes.

Some of us argue on the floor that without special immunity protection or predictability, the tobacco companies will never accept tough advertising restrictions or consent to FDA regulation. To this I would respond simply by saying if we make the look-back surcharges so tough that without major cultural changes companies will see profits evaporate, we will get our advertising restrictions. If we show that these advertising strategies are aimed at our children we will get these restrictions. We do not need to give special deals that allow tobacco companies to walk away from their responsibilities.

The tobacco companies have lied to Congress and the American people now they want to negotiate in good faith. In the 1980's, there was legislation in the House of Representatives regarding safe cigarettes. There is technology that would allow tobacco companies to manufacture a cigarette that was almost fire safe. The Safe Cigarette Act, introduced by Representative MOAKLEY was fought at every level by the industry. They claimed that it was not cost effective to make a cigarette that would prevent the tragic death of children in fires caused by a carelessly discarded cigarette. Saving children from a horrific death from fire was not enough of an incentive for the manufacturers to sacrifice some of their billions of dollars in profits. Instead they sacrificed children.

Now the industry wants immunity. We are supposed to give them caps on their liability and responsibility in exchange they will become responsible corporate citizens. This claim simply has no merit. They do not deserve any special deals.

Will the tobacco companies challenge these provisions in court? It is hard to imagine an industry that has patented their own brand of litigation and used legal maneuvers to hide their deceit and lies, walking away from another opportunity to challenge restrictions in court. If this industry wants to tie this up in court for years to come, I would say we need to make the look-back surcharges so tough that their own stock holders will not allow this kind of irresponsible behavior. I caution the tobacco industry—if you want to spend the next few years litigating instead of cleaning up your practices you may very well become extinct in the next Century. What would the world be like without the plague of tobacco? Maybe this is what the industry should ask the American people?

I urge my Colleagues to think long and hard about this debate. We will never get another chance like this one to really make the world a safer and healthier place for our children. Let's side with our children today instead of the tobacco companies.

Mr. WYDEN. Mr. President, the international provisions of the tobacco legislation have been the subject of many hours of discussion and negotiation. The current provisions serve as a strong platform that I hope this body will continue to build upon in the years to come as we seek to protect all children from the diseases and the economic costs brought about by tobacco use. I received letters which demonstrate the breadth of support and the importance the public health community places on maintaining the international tobacco control provisions in the tobacco legislation.

I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EFFECTIVE NATIONAL ACTION TO CONTROL TOBACCO

May 20, 1998.

Hon. RON WYDEN,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

SENATOR WYDEN: Last summer's agreement between the tobacco industry and the Attorneys General was flawed because of its failure to consider international tobacco and health issues. We commend you for your strong leadership on this issue and support your efforts to ensure the greatest level of protection possible from tobacco for all children.

The international provisions in S. 1415 represent a good start. It is vital, however, that they not be weakened at all and that serious consideration be given to strengthening them.

Thank you for your tremendous leadership in protecting people from tobacco. We look forward to working with you on this issue.

Sincerely,

American Association of Physicians of Indian Origin; American Cancer Society; American College of Preventive Medicine; American Heart Association; Association of Teachers of Preventive Medicine; Campaign for Tobacco-Free Kids; Interreligious Coalition on Smoking OR Health; Latino Council on Alcohol and Tobacco; National Association of County and City Officials; Partnership for Prevention; Summit Health Coalition.

LATINO COUNCIL ON ALCOHOL AND TOBACCO,

Washington, DC, May 19, 1998.

Hon. RON WYDEN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR WYDEN: The Latino Council on Alcohol and Tobacco (LCAT), members of the Hispanic Health and Education Working Group and other Latino professionals want to thank you and your staff for your hard work in supporting international provisions for tobacco control. You and your colleagues are putting forth a signal, a good beginning, a starting point for assuring that the children of the world will be protected from the unacceptable practices of the tobacco giants.

Latino parents, educators and public health experts believe that US standards should be upheld worldwide. Federal workers should not support tobacco companies or their subsidiaries abroad. International agencies such as the World Health Organization and the Pan American Health Organizations and non-profit organization should receive funding for their efforts to prevent, treat and stop the spread of smoking related diseases. Anti-smuggling provisions should be strengthened. The US should be a leader in the fight against the spread of tobacco related diseases. You have made it clear through your efforts that public health has no boundaries.

We trust that you will continue to work on international tobacco control. We thank you for your leadership and commitment to these issues.

Sincerely,

JEANNETTE NOLTENIUS.

AMERICAN LUNG ASSOCIATION,

May 19, 1998.

Hon. RON WYDEN,
U.S. Senate, Washington, DC.

DEAR SENATOR WYDEN: Thank you for your commitment to protect the world's children from tobacco. The American Lung Association shares your concern that children around the world are prime targets for the tobacco industry. The international provisions of S. 1415, as amended, represent a strong first step toward curbing the worldwide tobacco problem that the World Health Organization calls a global epidemic.

The result of tobacco legislation should not be to redirect the tobacco industry's focus from America's children to children elsewhere around the world. Because of your efforts, the bill's international measures will

fund a public health effort around the world, require cigarette labeling and permanently stop the U.S. government from marketing and promoting the export of cigarettes. We cannot allow this progress to be rolled back by weakening amendments on the Senate floor.

Strong international tobacco control measures are part of the sound tobacco control policy outlined by the public health community and leaders like Dr. Koop and Dr. Kessler. This approach also includes a significant increase in the cigarette excise tax, full authority for the Food and Drug Administration, complete document disclosure, strict penalties on the industry for marketing to children, protection from environmental tobacco smoke, potent public health programs and, of course, no special protections, like immunity or caps, for the tobacco industry.

Sincerely,

JOHN R. GARRISON,
CEO and Managing Director.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized at this time.

Mr. KERRY. If I could just ask a parliamentary, procedural question.

Mr. HATCH. I will be happy to yield without losing my right to the floor.

Mr. KERRY. Mr. President, with the agreement of the Senator from Arizona, we want to try to structure the order for the next three speakers, if we could. I ask unanimous consent that after the Senator from Utah speaks——

Mr. MCCAIN. Senator DASCHLE.

Mr. KERRY. The minority leader be recognized; and after the minority leader, the Senator from New Hampshire be recognized——

Mr. MCCAIN. Then do a tabling motion.

Mr. KERRY. At which point, Senator MCCAIN will move to table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. I thank the Chair. And I thank the Senator from Utah.

Mr. HATCH. You are welcome.

A critical component of our debate must be the issue of this bill's constitutionality. This is a matter of extreme seriousness.

We are considering a bill that is fundamentally flawed with respect to its constitutionality. And that is despite the fact that each one of us swore to uphold the Constitution of the United States of America when we were elected and sworn into this office.

Many skeptics, particularly in the media, contend that Congress will pass for political reasons any measure that gains any sort of consensus, even if it violates the Constitution.

I reject that. I certainly hope they are wrong. I believe that the most important job that members of Congress have is to protect, preserve, and defend the Constitution of the United States. And, as Judiciary Committee chairman, I take this job very seriously.

Why? The answer is, for over 2 centuries the Constitution has been the genesis of our liberty and a source of America's amazing growth and prosperity.

The Constitution fosters liberty and prosperity by circumscribing Government's ability to interfere in the lives of the people. Thus, our Government is termed one of limited powers.

In fact, I believe that the structure of the Constitution—the separation of powers, checks and balances, and federalism—and not the system of courts, is the best protection of our liberties.

The salient fact is that the Constitution itself was designed to be, in the words of Alexander Hamilton in the Federalist No. 84, ''in every rational sense, and to every useful purpose, a bill of rights.''

One such constitutional mechanism to protect liberty is limiting Congress' legislative authority to only those laws that are reasonably derived from its enumerated powers contained in Article I of the Constitution, which in practice means that such laws must be consistent with the meaning of the Constitution's provisions and the Bill of Rights. As such, Congress has a special role in defending the Constitution and safeguarding our liberty by policing itself and by controlling its own appetites.

I wholeheartedly agree with the sentiment of Justice Oliver Wendell Holmes, who in 1904 gave the opinion that, ''It must be remembered that legislatures are the ultimate guardians of the liberties and welfare of the people in quite as great degree as the court[s].''

So this is why we are having this debate—to exercise our authority to ensure that any legislation that is passed is, in fact, constitutional. Let us confound the cynics by doing the right thing.

I pray that the Senate will consider the constitutionality of the floor vehicle and any other bill offered as a substitute. To skirt this issue would be to violate our very oaths of office.

I believe that the bill now being considered in this chamber suffers from a number of serious constitutional problems.

These problems permeate the bill.

Besides jurisprudential concerns, there are significant practical considerations, because passage of the bill could result in constitutional challenges that, if successful, will nullify the key sections of the bill. This is true for the bill as reported, the bill as rewritten over the weekend, and the bill as modified on the floor on Monday. Removal of many ''consensual'' items to a new title XIV has not addressed these concerns.

Mr. President, if key provisions in the bill are nullified, the efforts of Congress to enact an effective and truly comprehensive antismoking, antisnuff, plan will be severely impaired and virtually nothing will have been done to effectively reduce youth smoking.

I want to stress that the constitutional problems primarily arise because the Commerce version and several other major bills have moved from being a codification of the June 20, 1997, proposed agreement—which contemplated voluntary participation of the tobacco companies—to tax-and-spend and command-and-control legislation.

Without the voluntary participation of the tobacco companies—and the State attorneys general—both the so-called ''look-back'' provisions and advertising restrictions contained in this Commerce bill become constitutionally problematic. These and other constitutional problems raise first amendment, bill of attainder, takings clause, and due process clause issues.

More specifically, without the voluntary cooperation of the parties, the advertising ban contained in S. 1415 as amended will probably fall. This is a shame, because almost all health experts believe that restricting advertising is necessary in order to reduce teen smoking. The advertising restrictions in the Commerce bill are contained in both the protocol and in a section that codifies an FDA rule that also restricts otherwise lawful tobacco advertising.

The Supreme Court, in the 1996 decision 44 Liquormart, Inc. v. Rhode Island, emphasized that any restrictions on truthful advertising must receive the highest scrutiny, and be narrowly tailored to meet the statutory goal. They required that other less restrictive alternatives be employed to resolve problems before speech is censored.

The majority of scholars and lawyers who have looked at the issue agree that unless the tobacco companies voluntarily waive their constitutional rights, which is what they did in the June 20, 1997, agreement, most restrictions on the advertising of a lawful product, such as tobacco, would run afoul of the first amendment.

Indeed, most conclude that the restrictions contained in the protocol and FDA rule are not narrowly tailored and that other alternatives exist to reduce teen smoking.

Experts from the left to the right agree. Professor Laurence Tribe of Harvard Law School; Judge Robert Bork; Floyd Abrams, one of the most notable first amendment lawyers; the liberal ACLU and the conservative Washington Legal Foundation, all oppose these advertising restrictions as unconstitutional. It does not matter whether the restrictions arise from the codified FDA rule or in the settlement itself, both are unconstitutional. Let me just read to you some of their views.

Let us take the testimony of Floyd Abrams before the Senate Judiciary Committee on February 10, 1998:

> Any legislation of Congress which would purport to do by law what the proposed settlement would do by agreement in terms of restricting constitutionally protected commercial speech, is, in my estimation, destined to be held unconstitutional. . . . It is unlikely that, at the end of the day, the FDA's proposed regulations could survive First Amendment scrutiny.

That was given before the Senate Judiciary Committee on February 10, 1998.

Let me go to the next chart here. These are quotes by the American Civil Liberties Union to the Senate Judiciary Committee on February 20, 1998.

Both the legislation and proposed regulation by the Food and Drug Administration. . .are wholly unprecedented and, if enacted, will most likely fail to withstand constitutional challenges.

There are solid arguments.

Let us go to the next one.

The next chart is of Judge Robert Bork, dated January 16, 1996, when he said:

The recent proposal of the FDA to restrict severely the First Amendment rights of American companies and individuals who, in one way or another, have any connection with tobacco products [is]. . .patently unconstitutional under the Supreme Court's current doctrine concerning commercial speech as well as under the original understanding of the First Amendment.

Those are very strong arguments from well-established constitutional authorities.

I also have a letter, dated March 17, 1998, from Floyd Abrams, to Senator MCCAIN, concluding that the FDA restrictions are as violative of the first amendment as the somewhat broader advertising restrictions contained in the protocol of the Commerce bill. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CAHILL GORDON & REINDEL,
NEW YORK, NY, MARCH 17, 1998.

Re proposed restrictions on cigarette advertising.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I take the liberty of writing to you with respect to the questions you posed to the Clinton Administration concerning its views about and general support of S. 1415. In my view, your questions were particularly well taken given that any ban on truthful advertising of products that may lawfully be sold to adults—whether of cigarettes or any other product—raises very serious First Amendment issues. Regrettably, the same cannot be said of the Administration's response to you by letter dated February 27, 1998. In that letter and its attachment, the Administration claims that the ''significant constitutional concerns'' and ''difficulties'' it believes are raised by S. 1415 are not presented by the proposed FDA regulations on tobacco product advertisements. That is not the case, not in my view nor that of many others who have studied the FDA rule and opined on its constitutionality.

The expansive sweep of the proposed FDA rule makes it no less constitutionally infirm than the advertising restrictions in S. 1415. The scope of the rule tells the story. All cigarette advertising would be banned in any media other than ''permissible outlets'' such as newspapers, magazines, periodicals and billboards. Those outlets would, in turn, be liable to criminal prosecution and the entry of civil injunctions if they published any cigarette advertisements other than ones in black and white text containing a second warning statement in addition to the current Surgeon General's warning. The only exception to the text-only requirement would be for certain ''adult'' publications, a category that apparently would exclude such mass-circulation magazines as Better Homes and Gardens, Life, National Enquirer, Newsweek, People, Popular Science, Sports Illustrated, and TV Guide. Adults, of course, comprise the vast majority of the readers of these publications.

That the proposed FDA rule's extreme breadth and rigidity would serve to all but ban cigarette advertising to adults should be indisputable. What else can be said of a proposed regulation which would ban all outdoor advertising within 1,000 feet—over three football fields in every direction—from any playground or school anywhere in the nation? The 1,000-foot rule seems particularly gratuitous in view of the fact that it would ban advertising that FDA, by virtue of its proposed text-only requirement, already has sought to strip of the features FDA claims make it appealing to young people. The unbridled sweep of these restrictions is in no manner tailored to their supposed aim. This is particularly true given the availability of far less speech-restrictive alternatives to an ad ban, including stricter enforcement of existing underage sales restrictions and enactment of tougher new laws against sales of cigarettes to minors.

The Administration cannot seriously quarrel with the reality that by so severely limiting the placement and the nature of ''informational messages'' that advertise tobacco products to adults, those messages will no longer reach them. That result, the Supreme Court repeatedly has held, is unconstitutional—the government may not ''reduce the population . . . to reading only what is fit for children.'' *Butler* v. *Michigan*, 352 U.S. 380, 383 (1957), *see also Reno* v. *American Civil Liberties Union*, 117 S. Ct. 2329, 2346 (1997); *Sable Communications Inc.* v. *FCC*, 492, U.S. 115 (1989); *Bolgar* v. *Youngs Drug Products Corp.*, 463 U.S. 60, 71–72 (1983). In short, the FDA rule is no constitutional panacea. It, too, suffers the same fatal flaws evident in any scheme seeking broadly to ban truthful, nondeceptive advertising for a legal product.

In sum, I respectfully submit that the proposed FDA regulation could not withstand judicial scrutiny under the First Amendment.

Sincerely,

FLOYD ABRAMS.

Mr. HATCH. There are other provisions of the bill that are constitutionally infirm.

The look-back penalties in the Commerce bill, which are imposed on the tobacco companies if teen smoking does not meet certain goals for reduction, are subject to constitutional challenge unless they are voluntarily agreed to by the tobacco companies.

I must add that the Commerce bill now terms the penalties ''surcharges,'' but this simply is an attempt to elevate form over substance. No matter how it is termed, these payments are the functional equivalent of fines.

Chief among the grounds for challenging this provision is due process.

The Supreme Court has held that imposed penalties must be related to the objective of the legislation. Penalties should not be imposed without a showing of fault. I refer you to the Vlandis v. Kline case (412 U.S. 441) in 1973 which held that penalties without fault create an ''irrebuttable presumption.''

Given what we know—or do not know—about how teens react to advertising, it is possible that even if the tobacco industry does all that it can to prevent teen smoking, the target will not be met.

Moreover, besides the look-back penalties, the Commerce bill contains an additional provision that companies lose their liability cap protection if underage smoking exceeds the targets by a set amount. This is also done without a showing of fault.

Thus, it is clear that a court would interpret the Commerce bill's penalties as punitive. It is possible, then, that the look-back provisions could fall under the provision in the Constitution that prohibits Congress from passing a bill of attainder.

I refer my colleagues to the Cummings v. Missouri case (71 U.S. 277) in 1867. George III and the Parliament had used bills of attainder to punish their political enemies, and the framers of the Constitution wisely forbade Congress from doing the same.

Certain payments made by the industry raise fifth amendment takings clause issues. For instance, it could be argued that some of the payments made by the industry constitute a forced seizure of money. The initial $10 billion up-front payment and the first six annual payments are owed regardless of whether there are any tobacco-related incomes and regardless of whether there are any tobacco sales.

I might also direct my colleagues attention to a new provision which extends liability to the parent companies of tobacco subsidiaries, such as R.J. Reynolds and Philip Morris, just to mention two. The effect of that provision would be to extend the penalties to the conglomerates' food business, for example, even though they have independent operations and no fault on their part has been shown.

These payments can neither be characterized as a tax or a licensing fee and would constitute uncompensated takings under the fifth amendment. I refer, for example, to *Webb's Fabulous Pharmacies, Inc.* v. *Beckwith* (499 U.S. 155, 162–163), a 1980 case where cash and bank account seizures were held to be uncompensated takings under the fifth amendment.

The current version of the Commerce bill requires all tobacco manufacturers to release attorney-client and work product documents to the FDA and establish, finance, and run a document depository. Now, while this is a worthwhile goal,

I believe that the wrongdoings of the tobacco companies have been hidden for far too long and this information should be brought to the light of day to help the FDA in regulating tobacco and assuring the public health.

What some of my colleagues fail to appreciate is that it must be done in a constitutional manner, or it is all for naught.

We must remember that the June 20 settlement agreement presupposed voluntarily participation by the tobacco companies in releasing proprietary documents and in establishing and financing the document depository.

While litigation documents already made public can be forwarded to the FDA, it is problematic that the industry could be required to release additional documents, especially work product, confidential, or privileged documents. Such documents are properly defined by the fifth amendment. I refer you, for example, to the Nika Corp. v. City of Kansas City (582 F.Supp. 343 (W.D.Mo.)), a 1983 case, where the corporation's documents were held to constitute property under the fifth amendment.

Moreover, pursuant to the same theory, the forced funding by the industry of the depository—the leasing of the building, the salaries of the personnel—indeed as for any confiscation of cash or other valuable assets, would constitute a taking under the fifth amendment requiring compensation. I refer you to Webb's Fabulous Pharmacies, Inc.

Let me conclude my remarks by saying unless we have the voluntarily participation of the tobacco industry, I doubt that a comprehensive bill like the present Commerce bill could be implemented. Such a bill will undoubtedly be successfully challenged in the courts, and I believe the litigation and the inevitable appeals could take years to resolve.

In other words, I make the case that if this bill passes in its current form, without the cooperation of the tobacco companies, which will be the case, then it will be litigated for at least 10 years.

And in the end, I believe, it is likely to be overturned because it will be found unconstitutional. If that is so, then we are risking the lives of 10 million more kids who will become addicted to tobacco and die prematurely as a result of our failure to do the right thing, right now, on the floor of the Senate and in the House of Representatives.

It is important that these constitutional issues be addressed. It is important we not ignore the Constitution. It is important that we uphold the Constitution.

I know that the health of our children is of paramount concern to all of my colleagues. So let us at least do the right thing and pass a bill that is constitutional. The protection of the Constitution and the promotion of public health are not inconsistent goals. The American people demand both and we should give it to them.

I hope all who are here today will pause a moment to consider this.

This total cost of this bill has been estimated by some to be $516 billion, although I believe it is far higher.

It is estimated that the bill will result in a price per pack cost increase of $1.10 per pack, although this is at the manufacturers' level and I believe it will go higher.

There are a whole raft of other add-on costs not included in the $1.10 figure: the wholesaler and retailer markups; the impact of growing contraband sales which divert revenues; possible triggering of the look-back provisions; and new state excise taxes. That is why several analysts who have done detailed economic models have concluded that the cost will be over $5 per pack, or over $50 per carton, of cigarettes.

These are important considerations.

If we do not rectify the situation and approve a constitutional measure, then I think everybody who votes for this bill would deserve a great deal of criticism for what has happened. What really bothers me, to be honest with you, is how some who represent the public health community choose to ignore these issues. Their motives seem to be directed more at punishing the tobacco companies than at securing a tough, workable bill.

Nobody dislikes the tobacco companies more than I do, and nobody has fought harder to try to get the tobacco companies put in line.

But frankly, unless they come on board, unless we can bring them to the table, this whole thing could amount to an exercise in futility. The constitutionality issue is key here, and I just don't see how we can continue to ignore it.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Democratic leader.

Mr. DASCHLE. Mr. President, I know we are about to come to a vote on this amendment. I begin simply by complimenting the sponsors of the amendment for what I know is a well-intended effort to address one of the most consequential of all the issues we must face. I certainly don't deny a very strong case can be made for following through with what is described as the intent of this amendment. I happen to come down on the other side, and I am going to try to explain the reasons why I believe this amendment ought to be defeated. But it is not without high regard for the sponsors, both Senator GREGG and Senator LEAHY, and the effort they are making.

Let me just say, as to the question of immunity, one thing that I think needs to be said is that there is no immunity in this bill, period. There is none. No one should be misled. There is no immunity in this legislation. There are ways with which we deal with the tobacco companies and their legal standing, but no one should say that the bill provides immunity for the tobacco companies. On the issue of immunity, I think the managers of the bill have made great progress over the course of the last week. Working with the administration, they have improved dramatically what was done initially in the Commerce Committee. What the Commerce Committee itself did, in my view, is raise serious concerns that I, frankly, felt had to be addressed if, indeed, we were going to resolve the overall issue of how we approach tobacco policy in the future.

There were special protections for the tobacco industry that were written into the committee bill originally, which I believe were very, very seriously in error as a matter of public policy. For example, allowing parent companies of tobacco companies total immunity would have been wrong. To say that we are going to ban all claims based on addiction would have been wrong. To say that we were going to prevent State courts from hearing all claims would have been wrong.

Mr. President, I want to make sure that all of our colleagues understand that every one of those special provisions has now been eliminated. All of those special provisions no longer exist. The managers' amendment, which is now part of the bill, has eliminated all of them. The only remaining provision is a cap on yearly payments, and that cap has been raised from $6.5 billion to $8 billion. So before any Senator is called upon to make their vote, I hope they understand that simple fact—perhaps I should say those simple facts. There is no immunity in this bill; there are no special protections, unlike what was reported out of the Commerce Committee. What is left is a cap that has been raised by $1.5 billion annually.

Let me emphasize something else about that cap. The cap is available only to those companies that agree to additional advertising restrictions beyond what is contained in the FDA rule. They have to commit never to challenge the entire bill to be eligible to come under that cap. They can't advertise and they can't challenge the provisions of this legislation just to be eligible. And then there is one more thing. Everybody needs to understand that in order just to be able to do that, they have to pay out an upfront payment of $10 billion. So here is what we are offering the tobacco companies: You pay the country $10 billion; you agree to limit your advertising way beyond what the FDA rule will provide. You also agree not to challenge the provisions within this bill, and then we will fit you under an $8 billion liability cap. And only those companies which make those commitments are eligible. Only those companies that make those commitments will have State suits settled.

Any company that says, ''Wait a minute, that is too high a price. You are asking me to limit my advertising way beyond what FDA is going to tell me. You are telling me that I have to accept every provision in this legislation. You are telling me I have to pay forth $10 billion, and if I don't do that, you are saying I still have to face all those court suits in the States''—well, companies that refuse to sign the provisions under this bill get absolutely nothing. So a tobacco company is faced with the prospect of coming under an $8 billion liability cap by agreeing to all these additional provisions or getting nothing, under this legislation. They will continue to face lawsuits in the States if they don't sign onto the provisions that we have laid out in this legislation.

But it even gets more complicated for tobacco companies. We are not giving anything away by putting in an $8 billion cap. We are getting something we can't get through our own legislation. We can't legislate the advertising restrictions that go beyond the FDA rule without raising first amendment questions. And we could not prevent the tobacco industry from challenging other provisions of the bill. That is a problem. The cap is our way of addressing that particular, very serious problem.

Let me remind my colleagues of what the tobacco companies have to do to come under that $8 billion yearly cap, beyond what I have already mentioned. Of course, I have mentioned the advertising restrictions. I have mentioned the upfront payment. I have mentioned that they have to agree not to challenge the terms of the legislation, not to challenge the FDA authority. They cannot challenge the look-back surcharges. That is, they can't challenge the provisions that hold them accountable for reducing youth and teenage smoking. They can't challenge those look-back provisions or any of the payments, for if they challenge any of that, it is all over and they are back right where they started. They fall outside the cap and they are subject to every single state lawsuit and the unlimited liability that they are facing right now.

Let me also remind my colleagues that the tobacco companies will lose the protection of the cap if they fail to comply with any one of the terms—not all of them; all they have to do is miss on one of them.

So, Mr. President, I don't know how you get any tougher than that. Even if the companies comply with all of those provisions, they could lose the cap for other reasons: If they miss the youth smoking targets by 20 percent or more, if they are caught smuggling or aiding and abetting smuggling, and if they fail to make an annual payment within the year that it is owed. All of those additional criteria are locked in with this bill.

So I don't know, Mr. President. It sounds to me like that is about as tough as it gets. First of all, they have more restrictions than they have ever had in any other set of circumstances. They are required to pay more money. They are subject to discipline each and every year with regard to an array of very tight provisions. And what they get in return is an $8 billion cap on liability.

Mr. President, I will oppose the Gregg amendment because I believe the managers' amendment approaches the issue in the right way.

It gives protection only to those tobacco companies that go further than we legislate, that acknowledge the need to limit advertising in a way that we can't legislate in this bill. The other tobacco companies, those that do not sign up, will have no cap and will continue to fight it out in the courts in all of the States where these cases are being contested.

I think we have to do all we can to reduce teen smoking. Additional advertising restrictions and a commitment made by tobacco companies not to challenge the law will increase our likelihood of success—not decrease it, increase it.

Mr. President, for all those reasons, as well-intended as this amendment is, I hope my colleagues will think very carefully and very conscientiously about how important this question before the Senate truly is. We must do what we can to ensure passage of this legislation, to ensure that we stay tough on these companies, that we make them to do what we know they must do to reduce teen smoking, and to comply with the intent and the spirit of our objectives in this law.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I understand the regular order is that I am recognized, and then the Senator from Arizona is to be recognized for a tabling motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. GREGG. Mr. President, a lot of folks have spoken today, and I reserved commenting on each speech until this time. I recognize that we want to get on with a vote—I don't want to delay that process—but I believe a few points need to be made to clarify the ground, to blow the smoke away, if I may use that metaphor, from the issue.

Let's begin with the question of immunity and whether or not immunity is granted in this bill.

Immunity for the purposes of this debate has become a term of art. Like so many terms that we use here in the Senate, it may not be the most precise term but it is the term that accurately from the political standpoint defines the event here.

The fact is that under this bill the tobacco industry is going to be given a special preferential position in the order of American commerce, a position which no other industry will have, a position which is totally outside of the traditional manner in which we have managed our marketplace under our capitalist system.

The limitations in this bill on the ability of individuals who have been harmed by the tobacco companies are considerable. They are significant and they will impact people. Pure logic tells you this, because, obviously, if the argument is being made that the only way you can get the tobacco company to come back to the table is if you give them these protections, there must be something pretty darned substantive to these protections.

So very obviously the limitations which are being placed on the capacity of the American consumer to recover for the damage that has been caused to him or her by the tobacco companies are significant, if this bill passes. Let me list a few of them.

There will be limitations on the amount of recovery on punitive damages because there is a cap. There will be limitations on the amount of damages recovered from compensation damages because there is a cap. There will be a preemption of actions by States, municipalities, and counties for future claims. There will be immunity for wholesalers, retailers, insurers, and the ingredient suppliers for past and future claims. There will be, most importantly, a structure set up where the tobacco companies will pick who is going to be the winner and who is going to be the loser on the issue of lawsuits brought against them.

What an ironic situation, as I have said before on this floor.

The way this cap works, it is the first person to the courthouse to get a settlement who gets the money. And the tobacco companies, since they are the ones being sued, can pick who is going to win. If they are sued by three different groups—a group of schoolteachers from New Hampshire, a group of kids from Pennsylvania, a group of friends from Ohio, and another group of friends from Illinois—they can settle with the friend from Ohio, and the friends from Illinois. If the cap is used up, the schoolteachers and the kids are out of it. They are out of it for that year, and they well may be out of it forever depending on how much the cap is used up, and in the next year, also.

So the people who are injured who have brought the lawsuit find themselves in the impossible position, or the ironic position, at a minimum, of having to go to the tobacco companies on bent knees and say, ''Please settle with me first so I can get into the fund before somebody else,'' which means that you inevitably create not an adversarial relationship but a supplicant relationship between those who are suing and those who are being sued, which is not in the tradition of the American jurisprudence system, to say the least.

Equally important, the concept that an industry will have protection from lawsuits in the marketplace is antithetic to the American concept of a free market. The protection that consumers have today, no matter what product they buy, is they can go into the courtroom, if they are harmed by that product, and get redress. There are a lot of other ways they can get redress, too. But the primary redress is that they can go into that courtroom or one of the primary redresses, if they have been physically damaged, or if somebody in their family has been killed, and they can get a recovery, if they can make their case. That is called the free market system. It is called the capitalist system. Under this proposal, that doesn't work.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. GREGG. No, I am going to make my statement. I know the Senator from Massachusetts has made his on a

series of occasions, and then we are going to go to a vote. I am not going back and forth carrying this on any further. I am going to make my statement. I have maintained a fair amount of reservation. So I didn't extend this debate for a lengthy period. I would like to get us to a vote.

Mr. KERRY. Fair enough. Might I ask, Mr. President, if the Senator would give me some idea of the length of time he expects to speak?

Mr. GREGG. I expect to speak for about another 10 minutes.

Mr. KERRY. I thank the Senator.

Mr. GREGG. So the marketplace is being fundamentally changed for one industry alone, the tobacco industry. That, in my opinion, is obviously a mistake.

Why is this being done? Representation as to why it is being done was made by a number of Senators, and I think they are accurate to their theories as to why it is being done. It is being done, to quote the Senator from Rhode Island, because they hope to bring the tobacco companies back to the table by putting in this significant benefit, which is protection from liability, immunity, or a form of immunity at a minimum.

It was interesting that the Senator from Utah, who is very familiar with this issue, said that even the caps, as it is presently structured, aren't strong enough to bring—they aren't enough protection to the tobacco industries to bring them back to the table, that they don't do enough, that they don't go far enough. That is an interesting comment, because what we do know is that the tobacco companies are not at the table right now. In fact, we know from the statement of the chairman of one of the tobacco companies that they have walked away from the table, and to quote him, ''There is no process which is even remotely likely to lead to an acceptable comprehensive solution this year.''

So they are not planning to come back to the table. Yet, here we have this deal which has been made, as I mentioned earlier, a deal with the devil, the producers of this product, which kills people and addicts people, and the devil walked away from the table. And now we have the unseemly situation of the U.S. Congress chasing after the devil saying, ''Please take my plan. Please take it. Take it, please. Please, please take this protection that we are offering.'' It really is unseemly. It is inappropriate. More importantly, it doesn't make any sense.

Why, if they are no longer participants in this process, would we want to give them a protection which no other industry in this country has today—it makes no sense—on the wish and the prayer that they are going to come back to the table someday in the future? I don't think so. I think it makes absolutely no sense that we should be making such a fundamental change in the way we manage our market, such a fundamental way in the way we manage our jurisprudence system, on a wish and a hope and a prayer that an industry, which has shown itself to be so endemically irresponsible, will for some reason suddenly become responsible and return to the table. I find that to be a concept which holds very little validity.

But the most substantive reason to support the amendment which has been offered by myself and the Senator from Vermont and to change the language in this bill—remember the language which we are offering here was the original language of the healthy kid amendment, which was supported by the President. I must say somebody should ask the President why he has changed his position on this because he did support this language initially. He formally and bluntly supported it.

But the primary concern here for supporting this language is this. We have an industry which produced a product that they knew killed people, and the evidence is conclusive on that. We have an industry which produced a product that they knew was addictive. Not only did they know it was addictive, but they increased the contents of that addictive part of the process, the nicotine, in order to increase the addictiveness of the product. They produced a product that was addictive, and they knew it was addictive. And then they took this product which killed people, which they knew killed people, which was addictive and which they knew was addictive, and they targeted the sales of it on our kids.

This is not an industry which deserves special protection from the U.S. Congress. Call it immunity, call it limited liability, use whatever term of art you want to use, but the fact is, this is an extraordinary step of special protection for an industry which has produced a product which is fundamentally bad, which they knew was bad, and which they targeted on kids.

While this Congress refuses to give that type of protection to other industries which are producing products which save lives—we do not give protection to medical devices which save lives; we do not give protections to automobile manufacturers that improve the style of life; we do not give protections to the computer manufacturer that improves the style of life; we don't give protections to the drug manufacturers that improve the style of life—we are going to give protection to the cigarette manufacturer, the tobacco producer that produced a product that kills you, that is addictive, and that was targeted on kids.

The choice I think here is pretty clear. We can stick with a system that has worked for 200 years, called the marketplace, where the consumer has the right to go into the court system and defend themselves and get a reasonable recovery, or we can structure a brand new system to protect an industry which has proven itself beyond any test to be a dishonorable industry, which has tried to destroy the lives of many Americans in order to sell its product.

From my standpoint, the choice should be simple. I hope the Members of the Senate will join with me and a fair number of other folks and Senator LEAHY, who has been a strong advocate—and I very much appreciate his participation as a cosponsor of this amendment—in passing our amendment to eliminate this liability limitation by defeating the motion to table which is going to be made by the Senator from Arizona.

I would like to say at this point before we go to the motion, I thank the Senator from Arizona for his courtesy and the Senator from Massachusetts for his courtesy in moving this amendment to a vote. I appreciate their courtesy. They have been more than fair in allowing us the opportunity to bring this forward and do it in a timely manner. I thank them for that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I move to table the Gregg amendment.

Mr. KERRY. Mr. President, before the Senator so moves, I would just ask him if he might answer one question.

Mr. MCCAIN. I will be glad to yield for a question from the Senator from Massachusetts.

Mr. KERRY. Mr. President, without prolonging this, I would ask the Senator from Arizona if he would agree—since there is no immunity and no liability limitation but only a cap on how much liability—that voting to sustain the cap and against the Gregg amendment is, in fact, completely consistent with the budget amendment vote?

Mr. MCCAIN. That is a very articulate and enlightening question. The answer is, the Senator is exactly right. Actually, it is a very important point.

I move to table the Gregg amendment and ask for the yeas and nays on amendment No. 2433.

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 question is on agreeing to the motion to table the underlying Gregg amendment No. 2433. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mrs. BOXER (when her named was called). Present.

The result was announced—yeas 37, nays 71, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—37

Akaka	Daschle	Frist
Bennett	DeWine	Glenn
Biden	Dodd	Gorton
Breaux	Faircloth	Graham
Byrd	Feinstein	Harkin
Chafee	Ford	Hatch

Helms	Landrieu	Robb
Hollings	Levin	Rockefeller
Hutchison	Lieberman	Sessions
Inouye	Mack	Stevens
Jeffords	McCain	Thurmond
Kerry	McConnell	
Kohl	Murkowski	

NAYS—61

Abraham	Durbin	Murray
Allard	Enzi	Nickles
Ashcroft	Feingold	Reed
Baucus	Gramm	Reid
Bingaman	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bryan	Hagel	Sarbanes
Bumpers	Hutchinson	Shelby
Burns	Inhofe	Smith (NH)
Campbell	Johnson	Smith (OR)
Cleland	Kempthorne	Snowe
Coats	Kennedy	Specter
Cochran	Kerrey	Thomas
Collins	Kyl	Thompson
Conrad	Lautenberg	Torricelli
Coverdell	Leahy	Warner
Craig	Lugar	Wellstone
D'Amato	Mikulski	Wyden
Domenici	Moseley-Braun	
Dorgan	Moynihan	

ANSWERED ''PRESENT''—2

Lott	Boxer

The motion to lay on the table the amendment (No. 2433) was rejected.

Mrs. BOXER. Mr. President, I wish to inform the Senate of the reason I voted ''present'' on the Gregg amendment related to liability limits for tobacco companies.

I abstained on this vote because my husband's law firm is co-counsel in several lawsuits against tobacco companies filed in California state court by health and welfare trust funds.

The Ethics Committee has advised me that voting on an amendment such as this ''would not pose an actual conflict of interest'' under the Senate Code of Conduct.

However, I decided that this vote could create the appearance of a conflict of interest and therefore I abstained by voting ''present.''

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GRAMM. Could we have order, Mr. President? I can't hear.

The PRESIDING OFFICER. The Senate will come to order.

Mr. MCCAIN addressed the Chair.

Mr. LEAHY. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. The Senator from Massachusetts seeks recognition.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I send an amendment to the desk.

Mr. GRAMM. Parliamentary inquiry, Mr. President.

No amendment is in order.

The PRESIDING OFFICER. An amendment to the bill is in order. Is this an amendment to the bill?

Mr. MCCAIN. It is a second degree amendment.

Mr. LEAHY. I suggest the absence of a quorum. Mr. President, I suggest the absence of a quorum.

Mr. MCCAIN. Mr. President, I am recognized, I believe.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. No one else can suggest the absence of a quorum.

Mr. President, is it in order to send a second-degree amendment?

The PRESIDING OFFICER. A second-degree amendment is already pending.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is not in order.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I know of no further debate on the Gregg second-degree amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2436

Mr. GRAMM. I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Texas, [Mr. GRAMM] moves——

Mr. MCCAIN. I ask unanimous consent that reading of the amendment be dispensed with.

Mr. LEAHY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] moves to recommit the bill, S. 1415, to the Committee on Finance with instructions to report back forthwith with all amendments agreed to in status quo and with the following amendment No. 2436 for [Mr. GRAMM], for himself and Mr. DOMENICI.

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. ___. ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

''(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the excess (if any) of—

''(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

''(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000.

''(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

''(A) after application of sections 86, 219, and 469, and

''(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

''(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 1998' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.''

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

''(18) DEDUCTION FOR MARRIED COUPLES.—The deduction allowed by section 222.''

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

''(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222.''

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

''Sec. 222. Deduction for married couples to eliminate the marriage penalty.

''Sec. 223. Cross reference.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. DASCHLE. 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. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk continued calling the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2437 TO AMENDMENT NO. 2436

(Purpose: To provide a substitute for provisions relating to reductions in underage tobacco usage)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. DURBIN, for himself, Mr. DEWINE, Mr. WYDEN, Mr. CHAFEE, Mr. HARKIN, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. DASCHLE, Mr. CONRAD, and Mr. REED proposes an amendment numbered 2437 to amendment No. 2436.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2438 TO AMENDMENT NO. 2437

(Purpose: To provide a substitute for provisions relating to reductions in underage tobacco usage)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] for Mr. DURBIN, for himself, Mr. DEWINE, Mr. WYDEN, Mr. Chaffee, Mr. HARKIN, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. DASCHLE, Mr. CONRAD, and Mr. REED proposes an amendment numbered 2438 to amendment No. 2437.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my colleagues for a very enlightening and informative debate. It has been an important discussion, not on the amendment just voted on, but on the bill itself. Obviously, we attempted to table the Gregg amendment, and it is something that is unfortunate, in my view, for the entire bill. At the same time, just like with the attorneys' fees and other aspects of this issue, we will revisit this issue again. I believe it is important for us to continue to work through the bill and get it through the U.S. Senate.

I think the American people expect us to do that, and I think it is important that we continue to work on the many amendments of significant importance to the bill. I believe this aspect of it not only will be revisited, but it is another chapter in a very long saga. Yesterday, we had two very significant victories. Today, we had a defeat. There will be more victories and more defeats as we go through this very difficult process.

But at the end of the day, I am totally confident that this body and the Congress will act in a responsible manner and adopt a comprehensive piece of legislation that will attack the nationwide problem of 3,000 children beginning to smoke every day and 1,000 of them being caused to die early as a result of tobacco-related illnesses. I thank all those who voted in favor of the amendment. And for those who opposed it, I respect the opposition. But I believe we will move forward with a comprehensive piece of legislation.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will be very brief. I join my colleague in saying that I think what Senator MCCAIN and I and others hoped for was the opportunity to be able to come to the floor and fight these tough issues. That is what we did. We just had a tough vote. Clearly, some of us had hoped that the outcome would be different, because we had a different view of where the bill might travel. But this by no means prevents us in any way from continuing forward in the process of molding this legislation. This is precisely what the Senate ought to be doing. It ought to be fighting hard over these votes. We ought to be able to come to an understanding of where the 51 votes lie. And then, ultimately, we all know that hopefully we can come together with a piece of legislation that finds a conference committee and, ultimately, both Houses of Congress.

So I thank my colleagues for this spirited debate and for the fact that we have voted on two of the most critical issues with respect to this legislation. I thank Senator DURBIN for now bringing to the floor, through the leadership, an amendment on the issues of the look-back, one of the other very important issues that needs to be resolved. I am confident that we will have another healthy round of debate on that. I look forward to continuing to proceed.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think we have had a defining moment in this debate. Throughout this debate, our colleagues, who have brought to the floor of the Senate a bill that will raise $700 billion in taxes, have said that they are not interested in the money, that the money is incidental, that what they want to do is raise the price of cigarettes.

We have made the point that this increase in the price of cigarettes, this tax, will fall very heavily on blue-collar workers. Those making $15,000 or less will pay 34 percent of the cost, the taxes that are built into this bill. Those making $22,000 or less will pay 47 percent of the cost. Those making $30,000 or less will pay 59.1 percent of the cost of the taxes embodied in this bill.

Even if this bill only raised the price of a pack of cigarettes by $1.50—and most estimates are that it will raise it by $2.50 at a minimum—it would mean that an average smoker in America would pay $356 of additional taxes as a result of this bill, and a blue-collar family where both the husband and wife smoke, would pay $712 a year more in Federal taxes. In fact, the table put out by the Joint Committee on Taxation shows something that, over and over, those who support the bill have tried to deny or neglect, which is that for those Americans who make $10,000 or less, their Federal taxes will rise by 41.2 percent as a result of the taxes embodied in this bill.

Now, what Senator DOMENICI and I did earlier was send an amendment to the desk that tried to give some of this money back to blue-collar workers in the form of a tax cut. Our colleagues say, it is not the money we want; they say, we just want to raise the price of cigarettes. So Senator DOMENICI and I took them at their word, sent an amendment to the desk that said raise the price of cigarettes; but since this is going to impose a bone-crushing tax on moderate-income Americans, let's take at least $1 out of every $3 that will be collected in this tax increase and let's give it back to working families by repealing the marriage penalty for families that make $50,000 or less. In other words, it gets the impact on smoking that may come from a higher price as a result of the taxes in this bill but with our tax cut we avoid lowering the real income or living standards of blue-collar Americans who, after all, are the victims here. The whole objective of the bill is to basically say people who smoke have been induced to smoke by the tobacco companies, and yet, paradoxically, the tax we are imposing is being imposed on the very people who have been exploited. In fact, the bill before us has an incredible provision which says every penny of the tax has to be passed through, and it is illegal if a tobacco company absorbs any of this tax increase. Every penny of it, 59.1 percent of the tax increase, is on families that make less than $30,000 a year. The victims of the smoking campaign by the tobacco companies are the people who are paying the taxes.

What Senator DOMENICI, Senator FAIRCLOTH, and I have said in our amendment is this: Raise the tax, but give a third of the money back to working families by repealing the marriage penalty for couples who make less than $50,000 a year. So you get the price impact on smoking, but you don't end up brutalizing economically moderate-income people.

I think it is very instructive that after 3 days of debate where our colleagues have said don't accuse us of wanting this money, we just want to raise the price of cigarettes, that we sent an amendment to the desk asking that $1 out of every $3 we are collecting in taxes be given back to moderate-income working families, and the Senate reacts in a convulsion, and the leadership uses right of privileged recognition to amend our amendment and to deny us the ability to offer a tax cut for the very people who are going to find themselves crippled economically as a result of this tax.

So let me just suggest two points:

No. 1, I think this is further evidence this bill is about money. Our amendment is hardly a far reaching amendment. We are just simply asking that roughly one out of every three dollars of the tax be given back.

Second, it also suggests, it seems to me, the objective here is to prevent us from having an opportunity to vote on a tax cut.

I want to assure my colleagues—and I know Senator DOMENICI feels exactly the same way—that there is no way we are going to be denied the right to offer this amendment. This won't be the last tax cut amendment that we are going to have. Quite frankly, I don't understand if those who are for the bill are saying what they really mean, why there isn't overwhelming support in both parties for giving a third of this tax increase back to working families.

Let me say very briefly what the amendment does and then yield the floor so that Senator DOMENICI, the cosponsor of the amendment, will have an opportunity to speak.

Under current law if two individuals, a man and a woman, both of whom are working in the economy outside of the home, fall in love and get married, under current law they pay on average an additional $1,400 a year in income taxes. So that, for example, if you had

two single people, and they didn't get married, and they filed an income tax return jointly, they don't pay taxes on any income of less than $10,200 a year. But if they fall in love and get married, even if they file separately, they have to pay taxes on income of above $6,900 a year. So we have an incredible provision of law that, in terms of deductions, penalizes working people who fall in love and get married by taking away $3,300 of deductions from them.

Mr. President, I think it would be a general bipartisan consensus that the family is the most powerful institution for progress and human happiness in history. Yet our Tax Code penalizes people who get married. If you want to state it in a dramatic way, you can say that the tax code provides an additional $3,300 of deduction by simply living in sin rather than getting married.

This has been much discussed. There is a strong basis of support for repealing it.

What we could do is simply this: Eliminate the marriage penalty imposed by the tax code for all families that make less than $50,000 a year—and those families will pay about 75 percent of this tobacco tax. Smoking is primarily a blue-collar, moderate-income phenomenon in America today. What we will do for couples that earn less than $50,000 a year is give them the additional $3,300 deduction so that there will be no economic penalty for people getting married. We will also allow those who get an earned income tax credit to take the deduction before they figure their eligibility for the earned income tax credit. So that even people who make very modest incomes will benefit from this tax cut.

This tax cut will take roughly $1 out of every $3 raised in taxes by the tobacco tax and give it back to working families. So those who want the higher price for tobacco to discourage consumption will get it, but we will not crush economically moderate income people who have become addicted to nicotine and who smoke. We will not have the terrible paradox that while talking about firing bullets at these big tobacco companies our bullets are actually hitting the victims who have become addicted to nicotine.

So on that basis, Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have not but for a few minutes spoken about the issue before the Senate.

I want to make it very clear that I understand the difficulty in managing a bill of this size. It is an enormous and contentious issue, and Senator MCCAIN should be commended for taking on such a difficult task. I have nothing but admiration for those who are attempting to develop this legislation.

But I can say to the Senate that I cannot imagine that the rules of this Senate are going to preclude Senators like GRAMM and DOMENICI from offering amendments to this bill. We want to vote on whether we want to have a tax cut as part of this new tax increase. Sooner or later we will vote. I don't know what the two amendments offered by Senator DASCHLE are. Whatever they are, in due course we will vote on them. If by chance one of them wipes out ours, we will be back to offer other amendments.

Let me talk about the history of imposing taxes on cigarette and related tobacco products. I am sure that I am not as good of a historian as my friend from Texas is, but is he aware the first reported effort to put a tax on tobacco was done by King James I in 1604.

King James just didn't like the odor of tobacco. He wasn't a U.S. Senator and he wasn't part of a democracy. He simply issued a proclamation. ''Smoking is a custom loathsome to the eye, hateful to the nose, harmful to the brain, and dangerous to the lungs.''

In 1604, King James said that. Now I used to be a smoker and I enjoyed it. I am just reporting on what King James said so I don't want the smokers listening to this debate to get mad at me.

Then he proceeded to put a 4,000 percent increase on imported tobacco.

He didn't pretend that he wanted to accomplish some worthy public purpose. He just wanted to raise revenue—and a lot of it. He was a dictator, king, benevolent, whatever they call them. But he didn't have to worry about what we have to worry about. And that is the impact on our citizens of this huge tax and the size of government. Frankly, there is not a word in history about this which said he was concerned about kids. He just said what I had described to you, and put the tax on and spent the money.

Frankly, people were no better off in those days. Even with a 4,000-percent increase people continued to smoke.

It is most interesting that without all of our science—I really think our science is great to find cures for cancer—King James I said that smoking was harmful to the brain and dangerous to the lungs. Having said that, he wasn't concerned about teenagers or about cancer because he didn't know about cancer.

But as we proceed to work on this bill, I want to ask myself and ask those who are working on this bill:

What do we really want to accomplish?

First, we contend that too many young people are starting to smoke. And we want to stop that. Make no bones about it. When we offer our substitute bill, we have done the best we can with a reasonable amount of money to try to stop teenagers from smoking. Too many young people are using drugs, and we want to try to stop that. And we want more research on serious illnesses, including cancer, so that someday we will stop them in their tracks.

Now, that is the kind of substitute amendment we are going to offer. But nowhere can anybody tell the Senate or the people of the United States that you need over the next 25 years $868 billion in new revenue from cigarette-related products.

Where do I get that number?

I don't think it has been said this way, but I want to make it simple.

The current Federal excise tax on tobacco is 24 cents a pack. It is scheduled to go to 39 cents a pack under current law. This bill includes an increase equal to $1.10 cents. That is 1.49 in straight arithmetic. And then the $1.10 is indexed for inflation or 3 percent, whichever is greater.

Frankly, we are not really sure how much this bill raises, but an acceptable number is $868 billion, I say to my friend from Texas.

Now, I want to try to put that in perspective. The biggest program we have taking care of the most people committed to monthly checks is the Social Security Program. $868 billion would pay for Social Security for 2 full years. $868 billion would pay for the entire Defense Department of America for 3 years.

This proposed tax increase in the McCain bill is bigger—when you put it into one basket, it is bigger than the gross domestic product of any of the following countries: Belgium, Austria, Canada, Denmark, Finland, Switzerland, et cetera.

Now, where did anybody come up with the idea that we needed every single penny of that to be spent on programs related to reimbursement to the States, to research, or to whatever? Where did the miraculous relationship of $868 billion, the total receipts, to the need for programs come from? There is no reason to it. There is no magic. I can assure you of that, if you only had a $300 billion tax increase, everyone would get by with $300 billion for this anti-smoking program.

But now we have gotten so grandiose about it that it is going to raise, over 25 years, over $868 billion under this bill.

Now, frankly, I believe it is only reasonable that part of this tax increase be given back to the American people, and I am going to have a lot more to say about that.

But a tax is a tax. This tax has a good motive: to stop kids from smoking. It may work—raise the price of cigarettes, and certain parts of the population may not buy them as much or may stop buying them. There is not conclusive evidence as to what price point you have to raise the price to, to have the most effect. But I can tell you, in our substitute we are going to propose 75 cents, period—no increases, just 75 cents. We believe that will keep the black market from going rampant and has as good a chance as any other number, by way of a tax, of deterring young people from starting smoking or encouraging them to quit smoking from the economic standpoint.

Having said that, I want to tell you that there is nothing more onerous in the United States than the marriage

penalty. Every once in a while, you will hear about a couple—it is not very frequent, but it gives you the dimension of this penalty—who will go to Mexico and get divorced the day before Christmas, and then they will go to Las Vegas and get married after New Year's. And guess what. They don't have to pay the marriage tax penalty. I am not sure if 500 do that, but we know some used to. I am not sure if it is 5,000. But imagine that you have a law on the books of America that invites that kind of conduct.

In the extreme, the marriage penalty is punitive. And it is just wonderful to hear Senators and political leaders say, ''We are for the family.'' I assume that when you say, ''We are for the family,'' without regard to one's philosophy, I guess you would have to say marriage is pretty important, too, because I think in some way it is related to the families. It used to be 100 percent related, but it is still very important.

Now, why would you impose a tax that would say to those two people who are married, ''You pay more if you are both working than if you are both working and living together and not married''? Frankly, I will tell you that I have heard, personally, in my own ear somebody say, ''We are not getting married because, after all, we love each other, but we would have to pay $2,800 more in taxes, and it is just crazy, so we are not going to get married.''

Now, I don't like to say that, but that is the case. And there are worse examples because they are much broader in terms of impact. The average marriage penalty in this country is $1,400. In some cases, it is much higher; in other cases, it is somewhat lower.

In fact, if you look at comparable countries, Mr. President, 27 of the OECD countries—they are tied together in terms of economic evaluations and assumptions and the like—19 countries tax husbands and wives separately, so there is no marriage penalty. What keeps the United States from doing that? Frankly, what has kept us in the past is that we had too big a deficit, and if we cut taxes, then we figured we were losing money and we would take it easy and careful and not fix everything in the Tax Code.

We have balanced the budget. Senator GRAMM and I do not intend to change a bit that approach to more and more surpluses. But when you impose a brand new tax—and it is inconceivable that you would need every penny of that tax for a program that deals with tobacco—frankly, there are organizations running around that have never seen so much money. I have stopped some in the hall with buttons saying, ''Cigarette Tax Now,'' and have asked them, ''Which one?'' Well, they said, ''We like Senator MCCAIN's improved.'' I said, ''Oh, but what's the goal?'' ''Well, the goal is the highest tax we can get and the biggest program we can get to spend money on teenagers and all kinds of health programs.''

Growing a big government is not why we are raising the cigarette tax. I thought our big goal was to try to stop our young people from smoking. Increasing the price of cigarettes plus a pro-active advertising campaign against smoking and drugs could be effective. We also need an attitude change at the cigarette companies. We also need a little more research. We need new penalties against those who sell to teenagers when they should not, and even to teenagers who smoke three or four times and they should not and know they are wrong. That is provided for in the GRAMM DOMENICI substitute. We would like to increase the budget DEA, FBI, Customs, and DOD drug interdiction programs.

But beyond that, what do we need all this money for? It is absolutely logical—I have been here a long time. I have worked on appropriations. Every year the chairman of the appropriations subcommittee comes to the floor. I will say, ''You can't imagine, fellow Senators, how many requests I had for money from my bill that I could not comply with.'' In fact, I have seen some where you take out a batch of letters and say, ''This is what I was asked to do that I can't do.'' But there is no relationship between the country prospering and being a great country and that pack of letters.

But now, look, here we have concluded—some have—that we would be remiss if we didn't dream up an expenditure for every penny of these tax dollars. Right? Now, why is that rational? Why should those of us say, how about one-third of it going back to the taxpayers and going back to fix the most onerous, discriminatory tax against an institution that we cherish and respect, one-third of the money.

I have not heard anybody say—and I hope, when we finally vote on the marriage penalty, and that is not going to be the only tax cut amendment offered, because if this one does not pass, there will be an amendment to cut 1 percent from the lower brackets. There will be a tax cut amendment to expand child care credits. There will be a number of tax cut amendments that should be considered.

But how can anybody stand up in the Senate and say, if you take a third of this huge tax increase the tobacco program for kids is not going to work?

I defy anybody to come up here and say, out of this pot of money and all these programs, if you don't keep them all, if you take one-third of the money and say, look, let's give it back to the taxpayers so we begin to get rid of this marriage penalty, at least for those families with $50,000 of income and under, I cannot imagine somebody will stand up and say:

''But we won't be doing what we must do for our kids.'' I mean, if it is $868 billion, and you have $650 billion instead of $868 billion, can you not put an effective anti-smoking and anti-drug program together?

Mr. FORD. Mr. President, will the Senator yield for a question, and I am on your side. I am on your side.

Mr. DOMENICI. I am just about finished and then I will be glad to yield.

Mr. FORD. I apologize.

Mr. DOMENICI. So, from my standpoint, as I told some of my friends to whom I said I was not in a hurry to pass this legislation, I said, why don't we continue to work on this bill until we get back. I said that because it is very contentious and Senators ought to have a chance to vent their positions and let the American people try to understand.

I have not been able to come to the floor because I been trying to help finish the ISTEA bill. I have noticed that the Senate floor time has been filled with Senators talking about this bill. There have been no long quorum calls. I do not think there has been anything dilatory.

But, frankly, I have a number of amendments that I believe should be offered. This is our best opportunity to consider tax cuts. I intend to talk about this bill.

I have dedicated 20 years of my career in the Senate getting our Government's size under control. I have had Senators congratulate me, saying we are finally getting Government down a reasonable in size; it is not going to be so big. And then all of a sudden I see this bill that will supersize Government—and I will gather more information for you so I can do more comparisons—but this bill will add probably as much in new programs to this Government as we have been able to cut from this Government in our deficit reduction programs of the last 4 or 5 years combined.

Government is government. Taxes are taxes. And, in our system, there is a relationship between the two. The higher the taxes, the bigger the government. And the higher the taxes, the less free are people.

I will commit that we ought to tax cigarettes to discourage kids from buying and smoking cigarettes. Senator GRAMM and I will propose taxing cigarettes at 75 cents a pack in our substitute. But I do not believe there is any magic formula as to how much you have to spend to try to dissuade kids from smoking.

If $600 billion is not enough, and we need $886 billion over 25 years, then you cannot give anything back to the taxpayers.

But what if $500 billion is enough?

Or $400 billion is enough?

Then I believe that some of the money should be given back to the people? That is essentially the issue.

It is as big an issue as any issue before us, because we do not need all the money called for in the McCain bill I have just told you about—a dollar and a dime plus 49 cents plus 3 percent added on every year. We do not need all that money for a cigarette program so we ought to not use it all.

Senator GRAMM and I are going to offer the Senate an opportunity to give some of the money back to people in the form of a tax cut.

I will be glad to yield for a question.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I appreciate the Senator from New Mexico yielding to me. I have a piece of legislation in to eliminate the marriage penalty, already having been introduced. I found, to my surprise, that 52 percent of married couples get a marriage bonus. Not many people know that. There is a marriage bonus for 52 percent. I forget how many million couples get a marriage bonus of about $1,300-plus. The marriage penalty is about $1,400-plus. If you wipe out the penalty and the bonus, we have a surplus of about $4 billion. If you take the marriage bonus away and wipe out the marriage penalty, it is almost a $4 billion surplus.

In the Senator's proposal here, what does the Senator propose, to make up the difference in the marriage penalty and you leave the marriage bonus in place?

Mr. DOMENICI. I am not aware. Maybe Senator GRAMM can help me. I am not aware we changed the marriage bonus if there is one on this.

Mr. BRYAN. Parliamentary inquiry, who has the floor?

Mrs. HUTCHISON. I have the answer to that question.

Mr. GRAMM. No, we did not change the marriage bonus.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. FORD. What was the answer?

Mr. GRAMM. The answer was ''no.''

Mr. DOMENICI. We don't change the marriage bonus.

Mr. FORD. The marriage bonus still stays there at $32 billion? The bonus is $32 billion?

Several Senators addressed the Chair.

Mrs. HUTCHISON. If the Senator will yield, the marriage bonus was put in place for single-income-earning families years ago. At that time, under 50 percent of the families in this country had two incomes. But today, 69 percent of the families in this country have two incomes. So the bonus became a penalty, because people were not able to get married remain in the same tax bracket as two singles earning the same combined amount. My colleague from Texas and the Senator from New Mexico are doing here what I have done in another bill, which I introduced with Senator FAIRCLOTH of North Carolina. Our bill allows married persons to choose to file as they do now or to file as single persons. That way, marriage versus single status will not have any tax consequences whatsoever. What we want in this country is fairness and equity in our Tax Code.

Mr. FORD. I am trying to find out an answer here. I understand the marriage penalty. I am opposed to it, and I am trying to find an answer to it and the unfairness of it.

In 1986, we repealed the two-earner deduction, but increased the standard deduction for married couples, and reduced the number of tax brackets from 15 to 2. The combination of these changes reduced the marriage penalty considerably.

Now it appears the EITC gets involved here, and I understand the distinguished senior Senator from Texas is eliminating that, or is he keeping that in?

Mr. GRAMM. Will the Senator yield?

Mr. DOMENICI. I will be glad to yield.

Mr. GRAMM. First of all, I want to make it clear—and I assume both the Senator from Texas and the Senator from New Mexico agree with me—I am sure not ashamed of trying to let working families, moderate-income families, keep more of what they earn. What we are doing here on the EITC is saying—let's say that you have two very low-income people, both of whom work. They fall in love. They get married. What we are saying is, to see whether they are eligible for the earned-income tax credit, which they will be. In another example, a single mother with two children——

Mr. BRYAN. Mr. President, parliamentary inquiry, who has the floor? As I understand the rules, no Senator can yield to another Senator.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. Will the Senator yield for a question?

Mr. DOMENICI. I still have the floor, Mr. President. I yield for a question.

Mr. GRAMM. Is the Senator aware that a waitress who had three children, and made $9,000 a year, and her prayers were answered and she met a janitor who made $12,000 a year and his prayers were answered and they got married, not only would she lose a $3,000 tax deduction, but she would lose her earned-income tax credit?

Mr. DOMENICI. That is correct. I understand that.

Mr. GRAMM. Is the Senator aware that under the amendment that we have offered, that same couple would be able to lower their income by $3,300, before they measured whether they qualified for the earned-income tax credit, so that the net result would be that moderate—people who make such a low income that they don't pay any income taxes, potentially, would still benefit from the provision in our amendment, so that people who are paying as much as $712 as a couple in these tobacco taxes would get some of that money back through lower income taxes?

Mr. DOMENICI. That is exactly right. I yield the floor.

The PRESIDING OFFICER (Mr. COATS). The Senator from Nevada.

Mr. BRYAN. Mr. President, I ask unanimous consent that upon my yielding the floor—it is my understanding the junior Senator from Texas requests 10 minutes, and I request that she be recognized. Following that, the junior Senator from Illinois? I propound that in the form of a unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair for his courtesy, as well as his parliamentary ruling.

Mr. President, as we debate this historic tobacco legislation today, 3,000 children across the country will try smoking for the first time. Of those 3,000 children, one-third, or 1,000, will become addicted is the only way to describe it, addicted to nicotine and will face a future of diminished health. The health consequences of the use of tobacco products is our country's most preventable public health problem, and our goal in this legislation is to stop underage smoking.

Our debate on this tobacco legislation is, indeed, a historic event. Less than a year ago, with the announcement of the June 1997 settlement reached between the States' attorneys general and the tobacco industry, few would have foreseen that we would have comprehensive legislation to address the national problem of underage use of tobacco products on the floor of the U.S. Senate. I give particular commendation to the Nation's attorneys general who deserve much credit for putting this issue in the forefront of public debate.

A year ago, the conventional wisdom may very well have been that the Senate would be incapable of debating comprehensive tobacco legislation. It was then said the tobacco industry was too strong, its grip upon the Congress too powerful. Mr. President, a different force arose.

The sustained efforts of the public health community, and in particular the former Surgeon General of the United States, Dr. C. Everett Koop, and the former FDA Commissioner, Dr. David Kessler, these two, as well as other public health advocates, have kept the focus on a common goal: a major reduction and hopefully the eventual elimination of underage smoking.

This legislation may not be perfect, but it does represent an extraordinary accomplishment. The initial Commerce Committee bill offered by Senator MCCAIN was a crucial step in ensuring that the tobacco industry would not be allowed to stop the effort to protect our Nation's children. After the Commerce Committee reported out its bill—and I am proud to say as a member of that committee I joined with a great majority of my colleagues in voting to report that bill out of committee—the tobacco industry walked away from the legislative process and then began an orchestration by the industry to end our efforts to protect our children.

The tobacco industry badly miscalculated again. Instead, our resolve to protect our children's future has been strengthened. This effort is of vital importance for the children of our Nation and for their future health.

In the 11 months since the proposed 1997 settlement, 990,000 underage children have become smokers. One-third,

or approximately 330,000, of those children will eventually die prematurely because of tobacco-related illnesses. This is a tragic statistic. This undermining of our children's future health must end.

If a child begins smoking before he or she reaches the age of their 18th birthday, there is an 80 percent likelihood that child will continue to smoke into adulthood. For these young children, the decision to try smoking has ramifications far beyond their understanding at such a tender age. These young people view themselves as I suppose all generations of young people have—as being indestructible. They do not realize, nor fully comprehend, the significance of their decision. That is a condemnation to a possible future of lifetime addiction to tobacco and a possible lifetime threatening health condition.

I keep using that word ''addiction'' because that is what we are talking about, Mr. President, addiction. How urgent our efforts are to reinforce these efforts have been highlighted by the recent report from the Centers for Disease Control, a report which indicates that the increase of tobacco usage by underage youth has increased by alarming proportions.

Just 7 years ago, 27.5 percent of all high school students in America smoked. In 1997, that number had risen to 36.4 percent. At the same time, the number of adult smoking was declining. Young African-Americans historically have been able to resist the tobacco industry's advertising reach and had relatively low levels of underage tobacco use. Unfortunately, that is no longer the case. Smoking by African-American students has almost doubled in the past 7 years, the fastest growth rate of any youth group over the past 6 years. White youth smoking has increased by 28 percent, and Hispanics have increased by 34 percent over the same time period.

Overall, 5.5 million of our Nation's 15 million high-school-age children are smokers. This report's findings are most distressing. Rather than gaining, we are losing ground in our effort to protect our children's health.

The decision to smoke or not to smoke is, we are told, an adult choice, and I share that perspective. But we have learned that the tobacco industry has systematically focused its marketing strategies on underage smokers and then lied about it. They lied to the American people. They lied to the Congress.

To get middle-school-age children—these are youngsters who are not yet in high school—to try smoking and then to get them hooked on nicotine is the key to the tobacco industry's future markets and profits. To hook these children at this early age means these young people will have been smoking for 3 to 5 years before they have reached the legal age to make that decision, the age of majority or adulthood at 18. What the tobacco industry has done is tantamount to a crime.

Let me be clear I strongly believe underage children also bear responsibility when they attempt to use, purchase or possess tobacco products, and they need to be held accountable for their illegal activity. I am pleased that at my request this legislation includes provisions to require States to have penalties so that underage youth who do try to purchase a tobacco product will know it is illegal and that it carries consequences. These penalties can include community service, fines and suspension of driver's license privileges. But holding young people responsible for illegal smoking or possessing tobacco products in no way excuses the tobacco industry for its shameless efforts to encourage underage smoking.

Our underage children have been the premeditated focus of the tobacco industry's effort to ensure there is a future, and I use their terminology, ''replacement market'' for their products. This industry has for years strategized as to the methodology to entice our youngest children to identify tobacco product brands with the sole purpose of getting them to try smoking as early as possible. This industry knew the earlier a child tries smoking, the greater the likelihood will be that child will continue to smoke and become addicted to nicotine. Once addicted to nicotine, that child will very likely continue smoking into adulthood, and then the industry will have accomplished its goal: the creation of a future replacement market for its products.

In the tobacco industry documents recently made public, this is manifestly clear. An R.J. Reynolds document states:

> This young adult market, the 14 to 24 group. . . represent[s] tomorrow's cigarette business. As this 14 to 24 age group matures, they will account for a key share of the total cigarette volume—for at least the next 25 years.

Yesterday, Mr. President, I was privileged to attend the White House Campaign for Tobacco-Free Kids. I was impressed with the more than 1,400 youngsters who gathered, representing America's youth, who made a determination not to be fooled by the tobacco industry. These young people have already made a choice, and that choice is to say ''no'' to the tobacco industry's attempt to take their future health away from them.

The tobacco industry has tried to manipulate the legislative process by intimidation. But the industry's saber rattling about its ability to win trials has been seriously undermined by its own actions.

The tobacco industry, among other criticisms of this bill, has consistently maintained that any legislation not limited to the $386.5 billion originally negotiated amount by the attorneys general and the tobacco industry in their June 1997 settlement would result in the bankruptcy of the industry.

The legislation we debate today is estimated to cost over $516 billion over 25 years, and the tobacco industry is asserting that such an amount would result in their bankruptcy.

However, I think it is noteworthy to point out that during the course of the congressional deliberations on the attorneys general-industry settlement, the tobacco industry itself has settled that it has voluntarily entered into an agreement with the State of Mississippi for $3.4 billion, the State of Florida for $11.3 billion, the State of Texas for $15.3 billion, and, most recently, the State of Minnesota for $6.6 billion.

Now, the tobacco industry's willingness to pay these multibillion-dollar judgments in just 4 of the 41 States makes two very important points. First, the industry's contention with respect to bankruptcy has been proven to be specious. These four settlements extrapolated to the remaining State lawsuits would cost the industry approximately $500 billion, nearly the same amount as the cost of the McCain legislation.

A further note. This industry was prepared, as a consequence of the June 1997 settlement that it voluntarily entered into, to decrease youth smoking by approximately 40 percent. The industry did not seem too concerned in June of 1997 that a loss of 40 percent of their market would bring about bankruptcy. And it does seem logical to believe that the industry would not have voluntarily negotiated a settlement if they believed that settlement would put them out of business.

A second point, if I may, Mr. President. The magnitude of these settlements only served to verify the industry's determination not to allow any lawsuit to go to a jury because they are fearful of the outcome—just what a jury might do once a jury fully understands the egregious misconduct of this industry and the impact it has had upon our Nation's children.

So the tobacco industry has also pulled out another old scare tactic, that this legislation creates a monster, convoluted, massive new bureaucracy. Quite to the contrary, this legislation does not. All administrative efforts need to assure that the proper implementation of this historic legislation will be done by currently existing agencies.

This legislation does provide for a very strong Food and Drug Administration role in the efforts to stop underage tobacco use and to assure the public of our Nation that its safety and the safety of our young people will be its paramount concern.

Now, I have consistently supported the FDA's efforts to reduce underage smoking. I am pleased that this bill will reinforce and, indeed, strengthen the ability of the FDA to continue to protect the public health of our citizens. The legitimate concerns raised by convenience store retailers who had feared they could, as a retail group or class, be prevented from selling tobacco products under the proposed

FDA regulations have been addressed. These retailers have now expressed their support for the proposed State licensing of business entities selling tobacco products as a means of further controlling access of these products to underage children. Under the revised FDA regulation section, the FDA will be able to revoke a retailer's license, on an individual basis, to control those retailers who do not abide by sale restrictions. This will protect those responsible retailers who are committed to preventing underage access to tobacco products, and to punish those who irresponsibly do not do all they can to prevent young people from illegally purchasing tobacco products.

Mr. President, equally ridiculous to the bureaucracy ''scare'' is the assertion that a massive black market will emerge. On the floor, we have heard over and over again the black-market warnings of Jim Pasco, the executive director of the Fraternal Order of Police. What tobacco supporters fail to tell us is that this same gentleman is on the payroll of Philip Morris, this country's largest tobacco company.

So I conclude, Mr. President, by observing that the arguments made by the opponents of this legislation are pure smokescreens. The issue is really simple: Will Congress have the courage to vote on the side of America's youngsters and to protect our youngsters from the possible lifetime health-crippling afflictions that are attributed to the use of tobacco that cause the premature death of hundreds of thousands of people each year or will it support the tobacco industry?

I hope my colleagues will take the courageous and historic step to vote for this legislation and to protect the young people in America.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized to speak for 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. DEWINE. Will the Senator yield?

Mr. President, I ask unanimous consent that I be allowed to speak after Senator DURBIN. We have an amendment that we are offering together, and I would like to be able to speak right after his speech.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAMM. Would the Senator yield before she starts for a unanimous consent request?

Mr. President, I ask unanimous consent that the Senator might yield to me for 1 minute.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. HUTCHISON. Mr. President, everyone agrees that children should not smoke. They do not have the maturity or judgment to understand the risks of their decision.

Mr. FORD. May we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mrs. HUTCHISON. Where we differ is, how do we achieve this result? Forty States have now filed lawsuits to engage the tobacco industry in accepting the responsibility for its actions. Recent evidence demonstrates tobacco companies targeted children in their advertising, and the industry may have manipulated scientific research in its favor. This, obviously, is outrageous.

We have a historic opportunity to limit youth smoking and to disclose all the information concerning the health risks of adult tobacco use.

Four States have moved forward and reached settlements. My State is one of those. As a member of the Commerce Committee, which drafted the first version of the legislation before us, my principal concern was to ensure that nothing we did at the Federal level would undermine the agreements that have been reached by the individual States.

I appreciate Senator MCCAIN for his support of my amendments in the committee, most of which are in the bill before us, that would hold those States harmless.

In my view, the most critical aspect of the Texas settlement and of the State attorneys general agreement that was reached with the industry was the restrictions on advertising and marketing that the industry accepted. These restrictions were tacit admission by the industry that its practice of marketing to teens was unacceptable.

These restrictions are critical to our cause of reducing teen smoking. According to the Congressional Budget Office, if the tobacco industry did reduce its advertising, the greatest effect would probably be among teens. This report notes that studies show that teens are more sensitive than adults to brand-specific advertising.

I voted for the original version of this bill in the Commerce Committee in large part because of the testimony of the attorneys general. They said the industry acquiescence in a ban on advertising, combined with a limit on industry liability, was the critical policy mix needed to attack the problem of teen smoking. That is why I voted against the Gregg amendment that was just before the Senate. That amendment will remove the liability limits.

The reason a limit on liability was deemed important by the attorneys general was that the tobacco companies are the source of funds for the smoking cessation programs in this bill. If tobacco companies are sued out of business, new ones that aren t held to the standards of this bill will replace them and we will have the worst of all worlds. We will have new tobacco companies that do not have liabilities because they haven't advertised to teens and committed the other misdeeds of the present ones. They will not be bound by the restrictions on advertising. I am afraid we will do more damage if we pass a bill that has no limitations on liability and no restrictions on advertising. This balance between advertising restrictions and liability limitations is what the attorneys general put forward, and I think we must recapture it.

In the Texas agreement and in the State attorneys general agreement, the tobacco companies are partners in the effort to stop teen smoking. Largely through the voluntary advertising and marketing restrictions in the legislation that was before the Commerce Committee, we would be able to achieve our result to stop teen smoking. The tobacco companies have now walked, and I am afraid this is not a good development. I hope we can restore the balance and, in our zeal to punish the tobacco companies, that we do not destroy the very companies we expect to pay for the programs in our bill that can end teen smoking.

Without the advertising restrictions, I believe what we have before the Senate is a tax bill. We have to decide if raising the price of cigarettes would have the effect of stopping teens from buying them.

Now, most parents would be experts in answering the question: Will the demand for cigarettes by teenagers go down if we raise the price? They know, for example, that a $200 pair of tennis shoes or a $75 pair of sunglasses sound perfectly reasonable to a teenager. To those teens, there probably isn't much difference between a pack of cigarettes that costs $2.25 or $3.75. Unfortunately, the Congressional Budget Office study tends to support this common sense observation. According to the CBO study that said teens are sensitive to advertising, teens are not very responsive to tobacco price changes. In fact, studies show that, under some circumstances, there is no impact on teen demand when cigarette prices rise.

I have spoken to teens about this. I have asked them, Will raising the price from $2.25 to $3.75 make a difference? What I have found is that teens do think this is a pocketbook issue. But it is not the one you think. It is not the money in their pocketbooks that will make the difference to teens; it is their driver's license. Teens say that what will really deter them from smoking is the threat of losing their driving privileges. In fact, a study by the Texas Department of Health found that 64 percent of teenagers said they would not smoke if they thought they would lose their driver's licenses. This was compared to 48 percent who said a $250 fine would deter them. My State legislature passed legislation that imposed tough penalties on tobacco use for underage Texans, including suspension of their driver's licenses.

I am very concerned about what I consider to be essentially a tax bill, because we have lost the balance that we had in the attorneys general agreement. If it is going to be a tax bill, let's be honest; it is a tax bill on lower- and middle-income people. It may also lead to a black market problem.

Before I came to the U.S. Senate, I was the treasurer of the State of Texas. In Texas, the treasurer was the tobacco tax collector. I have dealt with the black market. I have seen how differences in tobacco taxes between states affect the black market. My agency did raids on flea markets and roadside sales of illegal cigarettes that didn't have stamps on them, and I can tell you something: We stopped truckloads coming from Louisiana into Texas and into the flea markets because there was a significant difference in taxes between Louisiana and Texas—it s a 21 cent a pack difference today. In fact, the estimates of the nonpartisan Tax Foundation show that my State of Texas loses $172 million in revenue annually due to the black market in tobacco. That is because we live next to a State that has a 21-cent lower tax and next to a country, Mexico, where cheaper cigarettes are available.

In Canada, they had the exact same experience when they increased the cigarette tax in 1991. Smuggling became such a problem that many provinces cut their own taxes to make it less lucrative. What did that lead to? Instead of smuggling, there was a black market between the Provinces. The government of British Columbia estimates losses of as much as $100 million a year.

This is the reason that the National Association of Police Organizations has asked us to be very cautious with the legislation before the Senate. According to the executive director, Mr. Robert Scully, this bill could lead to an increase in cigarette smuggling beyond the control of organized law enforcement.

All of us are struggling to try to do the right thing. I believe that I can truthfully say every Member of the U.S. Senate has the same goal: To stop teen smoking. However, how we get there is the question, and I don't think we are close to agreement on what is the right path to that goal.

I am not going to vote for taxes that will run out of business the tobacco companies that can pay for the health and smoking cessation programs. This would result in the emergence into the market of new companies not bound by our restrictions because they would have no history of wrong-doing. Then we would have no funding for the health programs, no voluntary restriction on the advertising, and we will never reach the goal of stopping teen smoking.

I am not going to vote for a tax increase that is so high that it causes a black market in my State of Texas as well as Arizona, New Mexico, and California, that borders Mexico, or where the price of cigarettes is very cheap. I am not going to vote for a bill that does not have a reasonable chance of a balance that will achieve the goal of stopping teen smoking.

We are going to have a lot of votes. I hope we can come up with a bill that I believe will reach that reasonable balance. I have not seen it yet. I hope that in the end we will not pass a bill that will create a black market, that will create more crime, that will take away the source of revenue that could help us pay for ads to stop teen smoking. And I hope we will not, in our zeal to punish the tobacco companies, have them walk away from the restrictions on advertising which they can only do voluntarily because it is their first amendment right to do so.

I hope I can vote for a responsible bill, Mr. President. I hope everyone in the Senate will come together to try to achieve an agreement that will produce the result of stopping teen smoking.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I believe the Senator from Oregon has a unanimous consent request. Would he be able to make that request without jeopardizing my time?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent at this time—I have offered an important look-back amendment in the Commerce Committee and worked with Senators DURBIN and DEWINE—that I be allowed to address this amendment after Senators DURBIN and DEWINE this afternoon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

Mr. President, for those who are following this debate, I hope they will understand that we are genuinely trying to move this bill to final passage. This bipartisan bill is the product of the Commerce Committee, crafted by Senators MCCAIN, KERRY, HOLLINGS, and others in an effort to do something historic to reduce the number of teenagers and children in America who are lured into the addiction of smoking.

We have tried to establish a procedure on the floor, which occasionally we have been able to hold to, and occasionally we fail. But that procedure was to allow each side to offer an amendment. Of course, Senator GREGG had offered his amendment, and, after some motions, then Senator GRAMM of Texas offered his amendment. At that point, I was supposed to have been next. But as it stands, now I am coming up with this look-back amendment in this fashion. It is an amendment which I am happy to sponsor with Senator DEWINE of Ohio, as well as Senator WYDEN of Oregon, Senator CHAFEE of Rhode Island, Senators HARKIN, COLLINS, KENNEDY, SNOWE, DASCHLE, CONRAD, and REED. This is truly a bipartisan amendment. I hope that those who are following this debate will understand the significance of this amendment.

The look-back provisions in the bill are really important in terms of enforcement. This term look-back is a relatively new term. It is not one created by the Congress. It is, in fact, a term of art which came about as a result of negotiation after the State attorneys general sat down with the tobacco companies. This is really an effort to make certain that the tobacco companies keep their word and reduce the number of young people in America who are smoking.

We have talked about imposing a new tax, or fee, on tobacco products with the belief that it will reduce teen smoking. But we are not certain. We don't know how much we will be able to achieve by increasing the tobacco fee by $1.10 a pack. We believe it could be significant. But it may not be enough.

That is why we have what is called a look-back provision. This is how it works. In years to come, we will do a survey of teenagers across America, and we will take a look particularly at children who are smoking. We will try to determine how many are smoking. We will also be able to determine what brands of tobacco they are using. With that information, we will be able to measure the effectiveness of the goal of this bill. We will look back on a periodic basis to determine how many children have been taken from the ranks of smokers or have not been recruited in the first place, and we will take a look at what they are smoking.

The look-back provisions are an important part of the agreement with the States' attorneys general. The tobacco companies knew this had to be part of the bargain. They couldn't walk away from the table with all of the things they hoped for, walk away from liability in a State suit, for example, without some assurance that they were in fact going to be genuine in their efforts to reduce teen smoking. The look-back language that is included in the McCain bill which came from the Commerce Committee is a very good start, but only a start.

That is the reason I am offering this amendment with Senator DEWINE and others. We want to construct an effective look-back provision that will change companies' behavior and give them incentives to stop marketing to children.

Our look-back amendment does two very important things. First, it shifts the emphasis on any look-back assessment so that it will fall primarily onto tobacco companies that are the worst offenders rather than primarily on the industry as a whole. That is a major element in this debate.

If you were to ask what is the difference between the Durbin and DeWine amendment as opposed to the Commerce Committee bill, it is the fact that when we look back and determine whether or not the tobacco companies are keeping their word, whether in fact they are no longer marketing and selling to children, we believe at least in this amendment that we should hold individual companies responsible. The McCain bill, the Commerce bill, as good as it is—I think it

is a good bill—looks at it primarily from an industry viewpoint. I will try to spell out here in more detail why I think that is not the way to go.

The second thing we do that is very important is, we restore the smoking reduction targets that were originally agreed to by the tobacco industry in their proposed settlement with the States' attorneys general last June. On both scores, this amendment is about accountability. Will these companies change their behavior? Will they stop their insidious marketing practices? Will they get honest in terms of the retailing of their product? We can find out. We can measure it. We can hold them accountable. If they don't live up to the reduction levels proposed in the legislation, they will face financial incentives to create the right climate and the right results.

Why do we need look-backs? Effective look-back provisions can help achieve the goal of reducing youth tobacco use and change the current incentives that drive tobacco companies to market to children. Make no mistake. We have gone through this debate over and over. You will recall that for years the tobacco companies used to say, ''This isn't fair. We are not trying to sell to kids.'' Then, of course, lawsuits were filed across the Nation. We required them to disclose the documents they were using. Along come these documents. It turns out that these tobacco company executives were not as honest as they should have been.

You all may recall this great scene that occurred about 4 years ago in the U.S. House of Representatives when the eight tobacco company executives came before the Commerce Committee in the House of Representatives. This ''gang of eight'' raised their hands and solemnly said under oath that nicotine is not addictive. America laughed, because they knew that once again the tobacco companies had made an incredible statement, literally one that had no credence whatsoever. When the tobacco companies told us nicotine wasn't addictive, that they were not adding nicotine or manipulating it in cigarettes, that they were not trying to sell to kids, it turns out they were wrong on all counts. So much for the credibility of the ''gang of eight.'' Incidentally, they are no longer the managers of these companies. But, nevertheless, their successors still have to be held accountable.

Today, each new child who starts to smoke represents a new profit opportunity for tobacco companies. Tobacco companies have a tough go of it. Think about it. If you were running their business—every year they lose 2 million of their best customers. But a half a million people will die from tobacco-related diseases. Another 1.5 million will finally be able to quit and break the habit, or will die of other causes.

If you are running a company losing 2 million customers a year, you need new ones. Where will you turn? You know adults are not your most likely market. They are usually smarter, a little more mature, and they know the danger of tobacco. They are not easily lured into the addiction. You have to go after the kids, and get the kids in their rebellious youth when they are willing to try anything and think they are going to live forever, and get them started on tobacco. If you can get a kid to start smoking cigarettes or chewing tobacco, it will develop into an addiction. The drug in that tobacco will go into that child's system and create a craving for this product that is very tough to stop. For those children who think that it is an easy thing to quit this addiction, it is not. The earlier they try to stop, the better. But the tobacco companies know that.

Since most smokers start as children, children are the only available replacement smokers to take the place of these 2 million lost customers. In addition, we know that smokers are generally very loyal to the first brand that they smoke. We all know people who will only smoke certain brands—Marlboros, the cancer cowboy's cigarette, or Kools, Camels, whatever it happens to be. Many people who started with the brand when they were kids stay with it for a lifetime, albeit a shortened lifetime.

These facts and the desire to give their shareholders steady profits lead the tobacco companies to market to children to ensure their future markets. The strong look-back provisions will totally reverse the economic incentives for marketing to children. It will say to the industry and to each company that they have an incentive to prevent their products from appealing to children. Manufacturers will start using what they have learned about teenage tobacco use to avoid having children use their products because every new child who picks up a cigarette or pockets a can of snuff will be an economic loss to the company.

Our goal is not to punish the companies or gain revenues. If this never generates a cent, that would be fine. But basically what we are trying to do is meet the smoking reduction targets. Our goal is to create the incentives which help achieve actual reductions in underage tobacco use so companies might never have to pay a penny of these look-back assessments. We are going to do our part. We are going to have youth access restrictions, counteradvertising, public education, and other governmental efforts to reduce youth smoking. We expect the tobacco manufacturers to do their part as well. And that is what this amendment is all about—accountability.

Why focus on company-specific assessments? In the bill that is pending, a much greater share of the look-back assessments are imposed on the whole industry rather than on specific companies. There is a $4 billion annual cap on industry-wide payments that is much greater than the company-specific assessment. Although the company-specific charges could be as much as $3 to $4 billion in extreme cases, it is more likely they are going to be a lot smaller. If all the companies miss their target by 10 percentage points, the company-specific surcharges would only equal $640 million. If they miss by 20 percent, it would be $1.3 billion compared to nearly $4 billion for the industry as a whole.

Let me show a chart here which gives you an idea of the difference between the look-back provisions that we are discussing.

Consider the fact that we are setting these targets to reduce youth smoking, and these targets say that over a 10-year period of time we are going to bring down smoking among kids by a certain percentage.

What happens, let's say, in the fifth year after this legislation passes when the tobacco companies as an industry are supposed to reduce the number of kids smoking by 40 percent? What happens if the largest company misses it by 20 percent, if instead of having a 40-percent reduction, they only have a 20-percent reduction?

Look at what occurs. Under this comparison of the Commerce Committee bill, and this amendment by Senator DEWINE and myself, the industry as a whole would face a penalty of 10 cents a pack and the individual company 9 cents a pack if they miss it by 20 percent under the Commerce Committee bill.

But look at the other side now if our amendment prevails—6 cents for the industry per pack, but 29 cents for the offending company. Doesn't that make more sense? If we know as a result of our surveys that the kids are smoking Camels, for example, shouldn't R.J. Reynolds be held accountable? They are the company that makes the brand. They market the brand. They retail the brand. They have an obligation under this law to reduce teen usage of their brand of cigarettes.

If you don't do that, think of the perverse situation where one company is trying its best to reduce teen usage and youth usage and another company ignores it. Under this bill, the penalty is spread across the industry by and large, and there is not that much of a forfeiture of funds for the individual company as would occur under the DeWine and Durbin amendment. We want to make this more company-specific.

This approach, which currently is in the bill, risks creating incentives for some company to keep building future market share. There is money to be made here. As long as these kids are smoking, these companies are making money. We want to make sure the profit is taken out of this. Our amendment increases the company-specific payments, reduces the industry-wide payments.

This amendment will not necessarily increase the price of cigarettes. I want to really pause for a moment on this point because I think it is so important. We have had a lengthy debate

over the last several days about whether or not we are imposing, at least indirectly, new taxes on lower income individuals, whether by raising the price of a package of cigarettes we are passing along to lower income and middle-income individuals more of a tax burden.

Think about this for a moment. Assume we have two companies and the Durbin-DeWine amendment is enacted. One of the companies is doing a good job; it is reducing its sales to minors—very happy with the results. The other company has made a calculation. The other company says we are not going to be so tough or restrictive. We will, frankly, look the other way. We are going to continue to do some marketing that we know appeals to kids. We are going to kind of tell our retailers we are not going to enforce the law that stringently, and so look what happens. If that occurs under the existing bill, they are both going to be treated equally in the industry-wide assessments; both will be facing these additional costs per pack equally.

Under our approach, it will be significantly different and the company that is a bad actor, the company that is not trying to reduce sales to kids is a company that will face a much, much larger charge per pack. Now, what do you do? If you are the company that has been selling to kids, it turns out kids are smoking your brand, you are facing this kind of payment. You can't add this price to the package of cigarettes because your competitor isn't doing the same. You have to absorb this cost in your bottom line. So the consumers are protected from the price increase, and basically the company really pays a price for what they have done.

This bill presently before us also reduces youth smoking reduction targets relative to what the industry agreed to last year. This second and very important element in the bill is one I would like us to pause and reflect on. Just last year, these tobacco companies came together, and with the State attorneys general said we agree to the following targets to reduce the number of smokers each year.

Well, a year has passed. The issue has come to Capitol Hill. We debated it back and forth and now we have a chance to enact this legislation. What has happened during the course of that year? The tobacco companies have done very well. They have done very well in luring more children into this addiction. In fact, since 1991, we have seen a dramatic increase in the percentage of kids who are smoking. That is a sad commentary. It is a sad fact of life.

What Senator DEWINE and I are doing in our amendment is going back to the original targets the tobacco companies set in their agreement with the attorneys general. So instead of the McCain or Commerce Committee bill reducing smoking by 60 percent of kids over 10 years, we hit a target of 67 percent in the equivalent course of time, getting them to quit or sparing more kids from the possibility of becoming smokers and of facing disease and premature death. Four-hundred and fifty thousand more children will be protected with the Durbin-DeWine amendment by the year 2008 than in the underlying bill. There will be 450,000 fewer smokers if the tobacco companies continue to meet their reduction targets of 67 percent instead of 60 percent; 150,000 fewer premature deaths—we know that about a third of smokers are going to die young as a result of this habit; $2.8 billion in lifetime social costs are avoided; and we have the same real target as the original proposed settlement. I think that makes sense.

The next question is the constitutionality question. The tobacco companies claim that these look-back provisions are unconstitutional. But both the Department of Justice and the Congressional Research Service have studied the issue and concluded they are wrong. Just as we hold companies responsible for clean air attainment standards, we can hold them responsible to help reduce youth smoking rates.

The courts have required that there be a rational basis for this type of program, and this amendment is based on a very rational consideration. If companies' assessments or surcharges raise their cost of doing business as usual, they will consider it an incentive to change their behavior and use the knowledge they have gained over the years in terms of selling to kids, to stop selling to kids.

With regard to the argument that this might violate due process, the purpose of the look-back assessments is to supplement the other measures in the bill designed to reduce youth smoking rates, including the bill's price increases, and to encourage the industry, which is uniquely able to develop innovative strategies, to take the action to minimize youth smoking.

The look-back provisions don't violate the Constitution's bill of attainder. All of us who studied the Constitution over the years wondered if we would ever run into a case where somebody would start talking about a bill of attainder. I didn't think I would ever face that in my life on Earth, and here we are on the floor of the Senate talking about a bill of attainder.

The bill of attainder in the Constitution prohibits singling out particular individuals or entities for legislatively mandated punishments. The tobacco companies have said: Oh, this look-back provision is a bill of attainder. The Department of Justice states the look-back provisions apply to all manufacturers of tobacco products, not a single company, and would operate as one component of a comprehensive industry-wide reform. Additionally, look-back provisions are not penalties for industry misconduct so much as an affirmative step to reduce youth smoking.

I think the tobacco industry's constitutional argument is a weak one, designed to shift away the attention from their marketing to kids.

Let me respond quickly to a few other items, and then I will be happy to defer to my colleague and cosponsor, Senator DEWINE.

Mr. FORD. Will the Senator yield for a question?

Mr. DURBIN. I will be happy to yield for a question.

Mr. FORD. I understand where you are going with this, and it is beginning to take hold. But in this piece of legislation, does HHS have the ability to put on the educational programs that would reduce youth smoking and the tobacco industry would have no control over that?

Mr. DURBIN. Yes. I thank the Senator for raising that.

Mr. FORD. But the point here, then, is that I am putting out all this information, and it doesn't work; then you get fined. I am a little bit concerned about that. I understand where the Senator is coming from. But I think we need to cover one more base, that if the tobacco industry is going to be responsible for the percentage reduction, and, if it isn't, then they pay, they ought to be able to be charged with advertising, or something, rather than letting HHS do it. And if it doesn't work, they get penalized.

As we say down home, ''Something about that ain't right,'' and I hope the Senator, with all his knowledge of this area, would look somehow to be sure that, if you are going to be charged with a penalty here, somehow you ought to have some input on how it is completed. You might be able to clear me up on that.

Mr. DURBIN. The Senator from Kentucky raises a dilemma, and that is: How much could we trust the tobacco industry coming up with the goal?

Mr. FORD. They can't.

Mr. DURBIN. I think it is more likely a public health agency will try to reduce those numbers. I can recall a few years ago the tobacco companies said, ''We are going to stop marketing to kids, and we are going to tell these kids we don't want their business.'' And they delivered their message by buying full-page ads in the Wall Street Journal. There may be some kids who read the Wall Street Journal, but not a lot of them. It is far better to take that information and message and put it on a television show the kids are likely to watch.

Mr. FORD. I say to my friend, I take this as if they were doing it to me as an individual and saying that you are going to be penalized—I am going to be penalized if your program doesn't work. And some companies, a brand only has about 1 percent of youth. They don't like it, and they don't use it. But if you reduce it down, if it is 1 percent, which one brand is, then you have to reduce that to six-tenths of 1 percent. That becomes very difficult when it is all adults.

I agree with what you are trying to do. I hope somehow or another we can make it fair rather than unfair.

Mr. DURBIN. I thank the Senator for his question, and I hope what we are doing is a coordinated effort. It is an effort which increases the fee on a package of cigarettes, which we have been told by economists, in and of itself, will reduce youth usage. It is an effort to change the advertising so that, by and large, children are not affected by the lure of that advertising. It is an effort by the Government—and the Senator is right—through HHS and others, to deliver this message effectively. But finally it comes down to the tobacco companies themselves who make the product and market the product and sell the product. And they bear a responsibility, too, a responsibility which, if they don't live up to it, is going to result in a charge against each package of cigarettes.

Let me just conclude with two or three points before deferring to the Senator from Ohio. Some say the 67 percent reduction figure over 10 years is too high. I don't believe it is. Marijuana use by 12- to 17-year-olds declined 76 percent from the late 1970s to the early 1990s. The smoking rate among black 12th graders in the late 1970s was the same as the rate for all teenagers today. It declined by 76 percent from the late 1970s to the early 1990s, without advertising restrictions, education, and counteradvertising envisioned in the current legislation.

Mr. President, 80 percent of adult smokers and 70 percent of adolescent smokers regret ever starting to smoke. I think we have a situation here where 67 percent is a figure that can be reached, and the actual number of young people who would then stop smoking is one that was agreed to by the tobacco companies when they met with the attorneys general just last year.

Why do we want to strengthen this bill? Because, frankly, we believe that unless the industry is held to this standard on a specific company basis, the results will not be what we hope they will be. Some people say the amount of the payment here is more than the lifetime profit from each new young smoker.

First, let's not get caught up in the debate of what is a lifetime profit from a new smoker. Is it only $500 or $1,000 or $1,500? I am not sure we accept these claims.

Second, these companies are not just profit maximizers; they want volume. Why? Why would the tobacco industry want volume over profit? Because they are dealing with people who are addicted to nicotine, who will have to follow them up the track as the price increases. So they do not focus just on profits but also on volume. And we have to find a way to reduce the volume when it comes to children.

Third, even this calculation does not get to the true cost of addicting a child on tobacco. The American Medical Association has estimated we would have to increase the surcharges to $400 million per percentage point—more than 6 times what the bill does in its company-specific look-back—to cover the societal cost of each additional smoker. It is about more than tobacco company profits; it is about the cost to America and American families as a result.

I think what we are setting out to do here is create a payment structure that is reasonable. Under the bill, companies will pay an industry-wide payment of $80 million for each of the first 5 percentage points by which they missed the targets, $160 million for each of the next 5 points, $240 million for the next 12, maxing out at $4 billion. Each company that misses the target will pay a company-specific surcharge of $1,000 multiplied by the number of children by which a company falls short of in its target. There is no maximum for the company-specific surcharge, which could reach as much as 3 to 4 billion dollars in an extreme case.

Under our agreement, companies will pay an industry-wide payment of $40 million for each of the first 5 percentage points by which the industry as a whole misses the targets, plus $120 million for each of the next 15 points, with a maximum of $2 billion. Each company that misses the targets will also pay a company-specific surcharge equal to the company's share of youth smokers multiplied by $80 million for each of the first 5 percentage points, $240 million for each of the next 19 points, with a maximum of $5 billion.

The potential maximum surcharges are similar in the aggregate. Ours is weighted towards companies as opposed to towards the industry as a whole.

Let me close by saying that I am happy that this is, in fact, a bipartisan amendment. For those who have argued on the floor over the last 2 days that they want to make certain that we don't increase the price of the product too much for lower-income groups, the Durbin-DeWine amendment addresses that directly. When you go company-specific, the money comes off the bottom line. For those who say that the targets that the State attorneys general agreed on to reduce the number of kids smoking were reasonable, as those tobacco companies said then, this bill returns to those targets. We think this is sensible. Let us reward those companies which are engaged in good conduct, reducing youth usage. Let us make those pay who do not engage in good conduct.

I am happy to have this amendment offered today in the Senate, and I am proud to have as my cosponsor the Senator who will be speaking next, my friend who served in the other body with me and now is the Senator from Ohio, Senator MIKE DEWINE.

At this point, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

Mr. President, I am pleased to join with my friend and colleague from Illinois, Senator DURBIN, to offer this amendment, an amendment to make the tobacco companies more accountable in our collective effort to reduce youth smoking.

Specifically, our amendment would make a few improvements—a few improvements, but significant ones—to the so-called look-back provisions of this current legislation. The look-back provision in the current bill sets targets for the reduction of teen tobacco use. And, then, it imposes assessments, or surcharges, on individual tobacco companies and the entire tobacco industry if these reduction targets are not met.

Our amendment would make two simple modifications to Chairman MCCAIN's look-back provision.

No. 1, our amendment, like the McCain bill, would impose a surcharge on specific companies as well as the entire industry, if reduction targets are not met. Both our amendment and the McCain amendment are blends of those two formulas. They are different, a different blend, as I will talk about in a moment.

Our amendment puts a larger emphasis, though, on the company-specific surcharge. We do this because we believe the threat of a surcharge against specific companies will give them a much stronger incentive to limit teen tobacco use. In a sense, it is sort of the American way. We hold people accountable. We hold them accountable—we give them the benefit of what they do as well as the detriment if they do something wrong.

(Mr. BENNETT assumed the Chair.)

Mr. DEWINE. Second, Mr. President, our amendment will increase the targets for reduction of youth tobacco use over what is in the McCain bill. But actually with our amendment, we are restoring, as Senator DURBIN has pointed out, the original reduction targets that were agreed to by the industry last year in the global settlement. The net effect of our amendment is to restore what the tobacco companies said and agreed to last year and said that they could do.

Let me repeat, we are not increasing the final reduction targets. Rather, we are simply restoring the original targets that were agreed to in last year's settlement.

Before getting into the specifics of this amendment, I first congratulate my good friend, JOHN MCCAIN, who has put together a very credible, a comprehensive, a good bill. He has faced a very difficult challenge and has crafted an excellent piece of legislation. This is a comprehensive package that attacks teen smoking in a variety of ways. I believe this thorough approach, when all the pieces of the puzzle are finally put together, will significantly reduce teen smoking. Let's make no mistake about it, that is our objective—to reduce teen smoking; to reduce the number of young people every day in this country who start smoking.

I have followed the policy evolution of the look-back provisions since they

were first proposed in that global tobacco settlement announced last June, announced by the attorneys general and by the leading tobacco companies' executives. That settlement contained a look-back provision. That settlement contained this brand new and innovative idea—the idea that we could enlist the tobacco industry in our fight to reduce teen smoking by simply giving them a disincentive to hook young people on tobacco.

The look-back provision in the original settlement called on the companies to work with us to reduce youth smoking by 60 percent after the passage of 10 years. That 60 percent was to be phased in at several intermediate levels. The settlement negotiators, including the tobacco industry, all agreed to these reduction targets. They obviously believed that they were achievable.

The settlement then gave the tobacco industry a big shove, a big shove to meet these targets by calling for an industry-wide surcharge in any year the targets were missed. The amount of the surcharge was to be based on how much the industry missed the reduction targets, up to a maximum or limit, a cap of $2 billion.

While I look at this, I recognize really from the beginning, the look-back could be a tremendously useful tool in reducing youth smoking. The tobacco industry, driven by a profit motive, has been incredibly effective in convincing our children to start smoking. If the financial disincentive was strong enough, we would have a way to put the industry's expertise to prevent youth smoking and to turn this whole thing around.

After studying the settlement's look-back proposal, I have two basic concerns: First, I was concerned that the proposed surcharges were not high enough to work as a significant deterrent to the tobacco companies. Second, I had some concerns about the settlement's way of distributing the surcharges across the entire industry; in other words, how they determined who was going to pay what. This was an issue I explored in several committee hearings, both in the Judiciary Committee and in our Labor and Human Resources Committee.

This approach, frankly, if I can use the term, seems almost socialistic to me, the provision that was originally agreed to. The provision calls for looking back first at the end of 3 years and periodically after that to see how well the tobacco industry had done in reducing youth smoking, and then once we found that out, irrespective of how an individual brand did or individual company did in reducing youth smoking, to then say, ''OK, we're going to spread it out in the industry; in fact, we are going to spread it out, not based on the percentage of youth who were smoking a particular brand, we are going to take that penalty and spread it out among adult users.''

So if a particular company had 20 percent, for example, of the youth market, but 60 percent of the adult market, then, in fact, that company would end up taking 60 percent of the burden of the look-back penalty. It is, in effect, socialism. It is something I think that should offend every Member of the Senate. It is not right, it is not fair, and that is why we are changing it in this amendment. Frankly, that is why Senator MCCAIN put together an amendment, a compromise, that did, in fact, begin to go down this road. Our amendment simply goes a little further.

Any company under the original settlement that did its job in reducing youth tobacco use would have to share the benefit of this good behavior with its fellow tobacco companies. Likewise, a company that failed to reduce youth smoking would not bear the brunt of the resulting surcharges because the payments would be spread across the industry.

This approach would have the effect really of diluting the incentive for individual companies to work as hard as they can to prevent teens from using their products. After all, why would a company try to prevent kids from smoking its cigarettes, perhaps creating a competitive disadvantage for itself in the larger adult market when other companies would share in the reward for whatever success they had in reducing teen smoking? It just doesn't make sense.

The way the payments are allocated to the specific companies in an industry-wide approach on the basis, as I pointed out, of the adult market share, would also dilute the incentive for companies to do a good job. Let's take a quick look at the example of Philip Morris, the maker of Marlboro.

This company, through the use of the Marlboro Man and other marketing campaigns, has been unbelievably successful in selling cigarettes to our underage smokers, to our kids, to our children. In 1993, 60 percent—60 percent—of all teen smokers used Marlboro, when in the overall market for adults, Marlboro only had 23.5 percent of the market share.

Let's look at how the industry-wide look-back approach would affect Philip Morris. After all, Philip Morris is responsible for a majority of youth smoking. This is the main company at which look-back incentives should be aimed.

Industry-wide look-backs allocate the industry-wide assessments to each company based on its adult market share. So if the company misses its reduction targets and is then required to pay, Philip Morris is only responsible for 23 percent of that total, because that is the total market they have, even though Philip Morris is responsible for 60 percent of youth smoking.

In the case of Philip Morris, under these statistics, if in a year the tobacco industry did not meet its targets and there was a penalty that had to be assessed under the law, the division clearly would not be equitable. Philip Morris is responsible for 60 percent of the problem, 60 percent of the kids smoking, and yet they would only pay 23 percent under this straight provision.

Let me again point out that Senator MCCAIN has changed this and moved it in the right direction. Our amendment moves it even further towards more emphasis on company-specific penalties.

Mr. President, what do we think Philip Morris will do under this industry-wide look-back? Will the look-back do what it is supposed to do, get Philip Morris to try to reduce the number of children who it sells to? Mr. President, to me it is pretty obvious what would happen. Because this industry-wide look-back forces other companies to pay for the sins of Philip Morris, I would expect Philip Morris would simply ignore the look-back. The industry-wide look-back in this particular case would fail to do what it is supposed to do. In the case of Philip Morris, it would fail to give the proper incentive to the very company with the most responsibility for stopping kids from using its products.

That is why, Mr. President, I started calling for a tougher look-back than the original settlement and for one that would be imposed on individual companies that fail to reach the targets rather than on the entire industry. In other words, an effective look-back proposal is one that would commit each company, each tobacco company to feel the impact—whether good or bad—of its own behavior.

And let us not kid ourselves, Mr. President. The tobacco companies will be able to, through marketing techniques, through their dealings with their dealers, through what advertising they will still be able to do, they will be able to have a substantial impact on youth smoking.

Yes, the Government is going to come in under this bill and we will have some anticigarette campaigns. The Government will be involved in other things. This will not be brand specific. This will be across the industry. It will, we hope, have the effect we intend it to have. But the fate of each company will still remain in each company's hands. And they should be accountable for what they do. They should be given—sort of the American way, Mr. President—they should be given an incentive to do what is right and they should be, if I can use the term, ''punished'' if they do not do what is right. It is the right way to approach the problem.

Mr. President, I worked with the chairman of the Labor and Human Resources Committee, Senator JEFFORDS, to include a tough company-specific look-back in this legislation. Prior to the Commerce Committee's markup of S. 1415, I wrote to Chairman MCCAIN to request that his legislation's look-back surcharges be higher than the original settlement, and that they be assessed against individual companies.

Mr. President, by the time this legislation reached the Senate floor, Chairman MCCAIN and the Commerce Committee had improved the bill's look-back provisions, and they had done it in two very significant ways. I commend them for it. In the version of this bill that came out of the Commerce Committee, Senator MCCAIN increased the level of the industry-wide surcharge and the overall cap in the look-back. This served to provide a stronger incentive for tobacco companies not to target youth.

Further, the Senator from Arizona went even further in this regard in the managers' amendment he offered this week. Specifically, Senator MCCAIN added a company-specific look-back surcharge in addition to the industry-wide surcharge.

Mr. President, by including both a company-specific look-back and surcharges stronger than those in the settlement, Senator MCCAIN's look-back provision represents a clear improvement from last year's settlement. It will be more effective. It will be fair.

What the Senator from Illinois, Senator DURBIN, and I are doing as we offer this amendment is to simply refine and improve the McCain look-back provisions. And we do this in two fundamental but necessary ways.

Mr. President, the most important modification included in the Durbin-DeWine amendment is a stronger company-specific look-back. The argument for this is simple. The higher the company-specific surcharge is, the more powerful an incentive each company has to prevent children from using its products. By putting more of the burden on individual companies, we can provide a much more powerful incentive for tobacco companies——

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is not in order.

The Senator from Ohio.

Mr. DEWINE. I thank the Chair and my colleague from West Virginia.

By putting more of the burden on individual companies, Mr. President, we can provide a more powerful incentive for tobacco companies to meet these reduction targets, especially among those companies that have gained the most from the youth market.

Basically, the Durbin-DeWine amendment would direct more of the surcharge amounts to be paid on a company-specific basis. The initial assessments—ones that are charged if a company misses its reduction target by a few percentage points—in our amendment would be higher than in the McCain amendment. In addition, unlike the McCain bill, our amendment would also bump up the surcharge once a company misses its reduction target by more than 5 percentage points.

Let us look at one specific example to demonstrate the differences of the two approaches. Suppose we had two cigarette manufacturers—company A and company B. Each controls, let us assume, half the market, including half of the youth market. Let us say company A has succeeded in meeting its reduction goals for reducing youth use, but company B failed to reduce its targets and failed, in fact, by 10 percentage points.

Company A has done the job. Company B has not. Here is how the total surcharges, to take a specific example—including both the company-specific and the industry-wide assessments—would break down under the McCain bill and the Durbin-DeWine amendment.

Under McCain, company A, the good actor, the good company, is responsible to pay $200 million, but would only pay $100 million under the Durbin-DeWine amendment.

Company B, on the other hand, the company that saw the increase, caused the increase in youth smoking, would be charged $750 million under McCain, but would pay $900 million under Durbin-DeWine. That is a 20 percent higher payment under the Durbin-DeWine amendment for the company that failed. More equitable.

So, as you can see, our amendment would shift the financial burden toward the company or companies that are responsible for the continued youth smoking, but also away from companies that do the right thing. Because companies will know that they are on the hook for how well they do, they have that much more incentive to prevent children from using their products.

Another way to demonstrate this, Mr. President, and to demonstrate the shift we are asking for in our amendment is to look at the overall bottom line. The McCain bill would impose an industry-wide cap, a potential maximum of $4 billion. This cap represents the maximum amount which would be assessed against the entire industry under these provisions.

Although there is no cap in McCain for company-specific surcharges, let us assume each and every company missed its target by, say, 25 percentage points. In that case, the surcharges would all add to about $1.6 billion. So that is the bottom line for McCain—$4 billion imposed across the entire industry, shared among all the companies, and about $1.6 billion for the individual companies that had not met its goals.

The Durbin-DeWine bottom line is as follows: The industry-wide cap is $2 billion, and the total amount of company-specific surcharges, under similar circumstances, would be $5 billion. That is only for that specific example.

Mr. President, the real story I am trying to convey with these numbers is simple: Our amendment has a greater focus on the company-specific look-back and thus provides a stronger incentive for tobacco companies to prevent children from using their products.

Mr. President, our amendment makes one other fundamental change to the McCain bill. Our ultimate reduction target—10 years hence—is a 67-percent drop in the number of teens who smoke. In the McCain bill, the end goal or target is 60 percent. On the surface, the McCain target appears to be the same as the 60-percent target in the original settlement the attorneys general reached last June.

Again, I remind my colleagues, this is a settlement that everyone agreed to. And the tobacco companies said, ''Yes, we will be held accountable. And, yes, we can get these targets.'' So it seems as if it is the same under the current McCain language.

But actually, on closer examination, the McCain target falls a little short of that original target in real terms. The reason why it falls short is the McCain and settlement reduction goals—although the same on the surface; appear the same—each use different starting points or different baselines.

The McCain bill calls for a 60-percent reduction from a higher baseline figure than was used in last year's settlement. Because of this, the McCain youth reduction targets are easier to meet than the original settlement. Again, not a great deal of difference. But all our amendment does, very simply, is take us back effectively to that original settlement, which I think was our original intent of what we should do.

What the Senator from Illinois and I are doing is restoring the original reduction goals from youth tobacco use from the settlement. The Durbin-DeWine amendment sets a reduction target of 67 percent, but after accounting for the different baselines—our reduction goal is equivalent to what is in the settlement. It is exactly what the tobacco industry last year agreed was reasonable and that they said they could reach.

Again, I want to thank my friend from the land of Lincoln, Senator DURBIN, and his staff for their work in putting this proposal together. Let me also thank Senator WYDEN, who will speak in a moment, Senators CHAFEE, WYDEN, DASCHLE, SNOWE, and COLLINS for joining us as original cosponsors of this amendment. This is truly a bipartisan amendment. I also appreciate the work of the Campaign for Tobacco-Free Kids and others in the public health community for their assistance and support. This amendment also has had the active support of former Surgeon General C. Everett Koop—and I certainly appreciate that. Finally, I am pleased that the New York Times has expressed its support for the amendment in an editorial in yesterday's edition.

Mr. President, the choice before us is simple—we have the opportunity here to vote on an amendment that will improve the one basic purpose of this legislation: to reduce youth smoking. By holding individual tobacco companies more accountable for failing to reduce youth smoking, and by restoring the original targets set by the tobacco

companies themselves, the Durbin-DeWine amendment will make a real difference in young lives. I urge my colleagues to join us on behalf of our young people and support the Durbin-DeWine lookback amendment. It is the right thing to do.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, I offered the amendment in the Senate Commerce Committee to toughen the look-back penalties for one reason. I believe that stronger look-back penalties provide a powerful tool to actually change the course of history and hold the tobacco companies accountable when they pursue youthful customers.

A brief review of the history indicates that the tobacco companies won't change on their own. For example, if you look at every previous effort, every single previous effort on the part of the Congress to hold the tobacco companies accountable, the tobacco companies, in fact, have found a way to get around those efforts. That is what happened when the Congress sought to go forward with restrictions on advertising. That is what happened when the Congress legislated warning labels. And that is what happened when the Synar amendment was enacted.

Many will remember our colleague who served in the other body. Mike Synar wrote very tough legislation that would, in effect, require that the States carry out the laws to protect our kids when they were targeted. The tobacco companies found a way around that.

So the tobacco companies have found a way around every single previous legislative effort on the part of the Congress to hold them accountable. Those who would like to know more about this history can learn about it simply from the documents that have come out since the 1994 hearings in the Health Subcommittee on the other side of the Capitol.

Now, the tobacco companies would like us to believe that they will change the course of history and their behavior on their own. Many of the Senators will remember after the original attorneys general settlement the tobacco companies took out very large advertisements in both the Nation's newspapers and in the electronic media. The basic message of those ads that were taken out by the tobacco industry when they were encouraging support for the original settlement, was their message that it was a new day. Tobacco companies said it is a new day. There will be improved corporate citizenship on the part of the tobacco industry, and that the sordid history that came out after 1994 in those various documents was a part of the past.

I think the inclination of every Member of the U.S. Senate is to say industry can change. Our colleague, Senator DURBIN, made mention of the fact that many of the executives who testified in 1994 aren't alive today. So a number of us were very hopeful that it would be a new day in terms of tobacco industry behavior. But when the Senate Commerce Committee held hearings earlier this year under the leadership of Chairman MCCAIN, we received powerful evidence that things really had not changed.

I will cite one example in which I was personally involved. In 1994, when I was a member of the Health Subcommittee on the other side of the Capitol, HENRY WAXMAN brought the Nation's tobacco executives before the Health Subcommittee. It came to light that the Brown & Williamson company at that time was genetically altering nicotine, genetically altering nicotine to give it a special punch and to hook their customers. This was, of course, a flagrant example of subverting the public interest. It was documented by the Food and Drug Administration. At that time, the Brown & Williamson company assured the country that they would not engage in that conduct again.

During the course of our preparation for the hearings in the Senate Commerce Committee 4 years later, I and other members of the committee learned from news reports and others that there was evidence that, in fact, Brown & Williamson was again genetically altering nicotine and again engaging in this detrimental conduct that they pledged to the country they would never engage in again in 1994.

So when the CEO of the Brown & Williamson company came to the Senate Commerce Committee with the other executives, I asked specifically about what kinds of practices the company was engaged in with respect to genetically altered nicotine. The CEO of that company said, in fact, that they were again selling this product, and in their words, in response to a question I asked that day, they admitted that they were working off ''a small stockpile of genetically altered nicotine,'' engaging in conduct that they pledged the country in 1994 that they would never engage in again.

The reason I bring this example up is that if a tobacco company will engage in that kind of brazen conduct, in that kind of conduct when they are under the hot spotlight of the U.S. Congress, as they have been for many months, what are they going to do when the attention of the Congress and the country turns elsewhere? This isn't about conduct of 20, 30, 40 years ago. We know that took place in the past. A number of us were very interested in knowing whether the companies really did want to change of their own accord. Many of those who have opposed tough look-back penalties have used this argument in the past. Companies are changing. These kind of tools of big government are certainly unnecessary, at best.

The Brown & Williamson example where they are working off a small stockpile of genetically altered nicotine at this time is certainly strong evidence that these companies have not really changed and it is not the new day that the Congress and the country were told about after the original settlement from the attorneys general.

Given that past history, over 20, 30, 40 years, and the most current history, the Brown & Williamson example which, by the way, the Justice Department is now conducting a criminal inquiry into, there have already been pleas in this regard—given that past history and the history present, many of us are not willing to say that it is actually a new day in the tobacco industry.

Mr. President, I want the Senate to know why I am particularly skeptical. I was a member of the Health Subcommittee of the other body in 1994, Chairman WAXMAN, the late Mike Synar, and others, did an extraordinarily good job of questioning the executives. But when it came to my turn during those hearings, I recognized that it had not yet been put on the public record whether these executives believed that nicotine was addictive.

So, in 1994, at those hearings, I went down the row with each of the executives, one by one by one, each of them, and asked them whether nicotine was addictive. And each of them under oath at that time said that nicotine was not addictive.

I like to think that moment contributed in some way to the important legislation we have before us, contributed to our positions for enacting strong legislation. But it seems to me that set of hearings and the documents that have come to light will only make a real difference over time if we now follow up on those early efforts and pass the strongest possible look-back legislation. That is why I offered a very tough set of additional penalties when companies don't meet their specific targets for reducing youth smoking under the Commerce Committee bill. That is why I am pleased to be able to join Senators DURBIN, DEWINE, CHAFEE, and others this afternoon.

The bottom line, with respect to our amendment—many of the details have been addressed—but the bottom line is if you do not have aggressive look-back penalties, look-back penalties that really zero in on aggressively the companies in a specific way, you effectively penalize the companies that try to change their behavior twice. You penalize them once through the industry assessment and second through the loss of market while other companies continue to market to children and a future market share.

This amendment represents a fairer approach. It does not allow the Congress, in effect, through loopholes in this look-back set of provisions, to place a company that does try to clean up its act, does try to change history, we make sure under our amendment that company wouldn't be placed at a competitive disadvantage when they said, now we are going to change and not seek out children.

Let me also say that because the number of teen smokers has actually grown since the original settlement was announced last summer, the changes that we offer today will essentially hold the industry to a reduction level to which they have already agreed. So, in fact, this amendment is stronger than what came out of the Senate Commerce Committee on the 19-to-1 basis. But given what we have seen with, again, the number of teen smokers actually increasing, this, in effect, simply ensures that the industry is held to a reduction level to which they have already agreed.

Mr. President, and colleagues, Senators DURBIN and DEWINE went into a number of the details with respect to how the look-back legislation works. I don't think all of that needs to be belabored at this time. But I would like to say that to me what this amendment is all about is reversing the course of history. History shows that in the past when we would write these laws, the tobacco companies would bring their entrepreneurial and advertising talents to the task then of getting around them. And the tobacco companies have more of that kind of advertising and entrepreneurial talent than anybody else around. They would always find a way to evade the law.

Learning from past history with respect to the warning labels, with respect to electronic ads, with respect to the way in which the industry got around the Synar amendment, we are making it clear that we are going to have the tools to rein in the scoff-law companies, those that do not clean up their acts as they have pledged to do. We do so in a realistic way. We do so in a fashion that makes sure that companies that really have changed won't be put at a competitive disadvantage.

I would say, finally, Mr. President, and colleagues, to those of you who have talked to me personally about those 1994 hearings, and what happened during the course of those 7 hours where the executives said that cigarettes were like Hostess Twinkies, cigarettes weren't addictive, and they never preyed on children, if you really want to reverse the course of history, if you really want to hold the companies accountable, if you really want to rein in the conduct that we saw demonstrated again in the Senate Commerce Committee when Brown & Williamson admitted that they are now using genetically altered nicotine, if you want to change that behavior, vote for this bipartisan amendment, because this is something that is going to change the course of history and make sure that these companies don't prey on our youngsters in the years ahead.

Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to respond to my colleagues who are proposing this amendment. But, first, I would like to make some general comments about the bill to complement some of the comments I made earlier today, some of which were related to a statement from the Joint Tax Committee which I inserted into the RECORD, the chart that they put together on the net cost of the bill. They have now added a line to their estimate. I want to include that in the RECORD as well. This is the price per pack of cigarettes under this bill with all these new taxes and surcharges and look-backs.

I will tell my colleagues that for 1998, the year that we are in right now, before this bill goes into effect, Joint Tax assumes the price of cigarettes is $1.98. They assume for 1999—I want our colleagues to hear this—Joint Tax says the cost of a pack of cigarettes goes up to $2.88, a 90-cent increase. The next year, $3.24; the next year, $3.41; the next year, $3.66; the next year, $3.83; by the year 2004, it is over $4, $4.06 per pack. The next year it is $4.12; the next year, $4.78; by the year 2007, 9 years from now, the price per pack, $4.48. The price today is less than $2.

This isn't coming from Don NICKLES. This came from Joint Tax. I haven't agreed with everything that Joint Tax has done in estimating this bill. But in this estimate, they have added some of the other aspects of the bill, including the look-back.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECONCILIATION OF GENERAL TOBACCO INDUSTRY PAYMENTS UNDER S. 1415, AS AMENDED, AND NET FEDERAL REVENUE EFFECT OF SUCH PAYMENTS ESTIMATED BY THE JOINT COMMITTEE ON TAXATION ON MAY 19, 1998, BEFORE THE LOOK-BACK PROVISIONS

[In billions of dollars]

Provision	Fiscal year—											
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2003	1998–2007
1. Calendar Years:												
1. Federal revenues from S. 1415 general tobacco indusry payments as adjusted for inflation (by calendar years as in S. 1415)	$10.0	$14.4	$15.4	$17.7	$21.0	$23.6	$24.3	$25.0	$25.8	$26.6	$102.1	$203.8
2. Calendar year volume adjustment	.....	.....	.....	.....	−3.6	−5.0	−5.4	−5.8	−6.2	−606	−8.7	−32.7
3. Calendar year payments	10.0	14.4	15.4	17.7	17.4	18.6	18.9	19.2	19.6	20.0	93.4	117.1
II Fiscal Years:												
1. Adjustments:												
a. Convert Federal revenues from S. 1415 general tobacco industry payments to Federal fiscal years	.....	−20.8	15.2	17.1	17.5	18.3	18.8	19.1	19.5	19.9	88.9	166.2
b. Change in the net revenues from Fedeal income and payroll taxes (because of the impact of S. 1415 general tobacco industry payments on aggregate taxable income	–	−5.2	−3.8	−4.3	−4.4	−4.6	−4.7	−4.8	−4.9	−5.0	−22.3	−41.7
c. Change in net revenues from present-law Federal tobacco excise taxes (because of price increases from S.1415 general tobacco industry payments)	–	−0.8	−1.2	−1.5	−1.9	−2.1	−2.2	−2.2	−2.2	−2.2	−7.5	−16.3
d. Net revenue effect of replacing State by State tobacco settlements with S. 1415 payments	–	0.5	0.9	1.1	1.4	1.6	1.9	2.2	2.4	2.7	5.5	14.7
2. Net Federal revenues from S. 1415 general tobacco industry payments (JCT May 19, 1998 estimate)	–	15.4	18.0	12.5	12.7	13.2	13.8	14.3	14.8	15.4	64.6	122.9
Nominal Calendar Year Price Per Pack With Youth Look Back	$1.98	$2.88	$3.24	$3.41	$3.66	$3.83	$4.06	$4.12	$4.78	$4.84	.....	.....

Note: Details may not add to totals due to rounding.

Mr. NICKLES. Mr. President, I wish to address the amendment by my friends and colleagues from Illinois, Ohio, and Oregon dealing with increasing the look-back penalties.

I made a statement earlier today that I think the look-back provision in this bill is one of the most unworkable provisions that anybody could dream up. I say ''unworkable.'' I don't think it will work. But I would like to maybe bring to my colleagues' attention how they propose that it should work.

To make the look-back penalties work, they say we are going to empower the Secretary of the Treasury to do a poll. It says to conduct a survey. The survey is on a national basis. They are going to measure the type of tobacco product used in the last 30 days. They are going to conduct this survey with methodology that he determines is appropriate. They are going to identify the name brand that the youngsters use. They are going to be surveying kids. They are going to be surveying people from ages 11 to 17. And they are going to ask them a question: ''Did you smoke, and what brand did you use?'' Then they are going to put all this information together. I don't think they are going to ask this of every teenager in America. So it is going to be a random survey.

Then they are going to compare the results of this survey to the mandates in the bill. If we don't meet the targets, or if the consumption of tobacco by teenagers is higher than what this bill says they should be, the tobacco companies are going to be assessed penalties. And the penalties are very large. The penalties in the look-back provision under the negotiated settlement with the attorneys general went up to $2 billion. The penalties that came out of the Commerce Committee were $4 billion—$3.96 billion.

And then the penalties which were rewritten by the administration and introduced on Monday came out $4.4

billion maximum, and now the amendment that we have in the Chamber says take that to $7.7 billion, and also increase the target rate to 67 percent.

Why do rates make a difference? Well, for every point you are out of compliance, you are assessed a penalty, and the penalty is large. The penalty for not making the target under the attorneys general negotiated agreement was $80 million per point missed.

Well, the penalty under this bill is $240 million per point missed. It is three times as large as that proposed under the original settlement. That is just the industry-wide look-back. There is also a segment that applies to the product, and it has a penalty that is $200 million per point missed.

If this sounds confusing, it is because it is, and it is in this bill. My point is it is not going to work very well. You are telling the Secretary of Treasury to take a poll, and then we are going to deem that this poll is correct.

Now, all of us have used surveys. We have all had polls. But this bill has language that I guess people want to become law which says the survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for the purposes of this act.

So we are saying, whatever the Secretary says, it is accurate. It is a done deal. And then they are going to and ask the kids, did you smoke? Now, they don't ask them, did you smoke 10 times? Did you smoke a pack a day? They can smoke one cigarette during that 30-day period and they are counted. And if this thing worked just right, a tobacco company would have to pay $1,000 because a youngster smoked one cigarette. I find that to be pretty high. And I might mention, this is really supposed to go after young people who are smoking illegally. They are smoking illegally. Let's put the penalty on the young person for breaking the law. Instead, we are going to do a random survey, a random survey that has to determine every single percentage for every single tobacco product. There is a de minimis level. We are not going to hit the smallest companies, I guess. I don't know how many different tobacco products there are. I don't know them very well. I don't smoke. I can only think of three or four cigarette brands. I don't smoke. And my guess is there is probably a lot of teenagers who don't either, but they can remember maybe the biggest name brands. I can remember Marlboro and Winston and maybe Virginia Slims. So if somebody said, do you smoke? I might be able to remember those name brands.

Mr. FORD. Mr. President, could I help the Senator with the names of some packs of cigarettes?

Mr. NICKLES. In a minute. That youngster taking the survey, if they mention a name brand, whether that was the brand they smoked or not, it comes out in the calculation of this data which is deemed accurate, proper, and correct. Then, that company can be subjected to enormous fines.

In the proposal, in the amendment that we have pending, the fines that are brand specific go up to $5 billion. They are also indexed for inflation. That is a pretty big penalty.

Then there is a $2.2 billion look-back that applies industry-wide. The Secretary of Treasury takes this survey and tries to determine what percentage of young people are smoking each brand in the country, and if each one of them by brand product missed this target, then they are assessed penalties that can go up to $7.7 billion and even higher in the outyears.

This is not a good plan. This is not a workable plan. I tell my colleagues, if you want to do something to reduce teenage smoking, come up with something else. If you want to come up with higher taxes, just increase the tax. I have heard some people say you don't need $1.50 because we have a big look-back and it's really $1.50 anyway. If you want to make it a $1.50, make it a $1.50, but call it a tax. Make it clear. Make it honest. This is a scheme. We are going to deem a poll to be accurate, and authorize the Secretary to assess enormous penalties, in the billions of dollars.

That doesn't make sense. Now, if you really want to reduce teen smoking, do something else. Say to teenagers, if you are caught smoking, we are going to slap your wrist. The second time we are going to make you clean up a park, the third time maybe a financial penalty. We don't have that in this bill. And I don't want the Federal Government to do it because I don't want to federalize these actions, but instead we should encourage the States to enforce the law.

It is against the law for teenagers below the age of 18 to smoke in any State. If you don't want anybody to smoke that is 18 years old, try and increase the age to 20 or 21. You have that right. But to come in——

Mr. FORD. Mr. President, may I correct the Senator?

Mr. NICKLES. Yes.

Mr. FORD. I don't believe it is unlawful to smoke. It is unlawful to purchase.

Mr. NICKLES. I appreciate the correction. Let me make the comment, Mr. President. In every State in the Nation it is unlawful to purchase cigarettes.

Mr. FORD. Now.

Mr. NICKLES. And if we want to decrease teenage consumption, maybe we should encourage the States to pass laws it is against the law to consume and put some responsibility back on the individual. Instead, we are allowing this massive growth of government.

It doesn't make sense. It is not workable. It is not fair. And I don't think it will be effective. I also don't think parts of it will be constitutional, and I don't think we have willing participants by the tobacco companies. So it is just not a good deal. For people who want to raise taxes, raise taxes. Be up front, be honest. If you want to do something else, do something else to get teen consumption down. But this bill is not going to work. It is just not a workable plan. Frankly, if it wouldn't work at $4.4 billion, it won't work at $7.7 billion.

I urge my colleagues examine this look-back provision, see how complicated it is, see how confusing it is to give the Secretary this power, and to decide this is not the right way to legislate. It is not the right way to tax, and let's come up with something better. I hope something better would include some personal responsibility and accountability for people who are breaking the law. If a teenager purchases, it is against the law if they are under the age of 18. And if you really don't want them to smoke, maybe we should encourage the States to have laws against the consumption as well.

I appreciate my——

Mr. DOMENICI. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. DOMENICI. I have a question. Is the Senator saying that tobacco companies do everything they are supposed to do and yet when we take the survey, we are not as successful as we hoped to be and so we are going to impose a fee on them?

Mr. NICKLES. The Senator is exactly right. You know, I am sure if this survey was taken during the Fourth of July break, it would have a little higher incidence of teen smoking than it would at some other time in the year. But if they smoke a cigarette, they are counted in the affirmative and the penalty would be $1,000.

Mr. MCCAIN. Will the Senator yield for one more question?

Mr. NICKLES. I will be happy to yield.

Mr. MCCAIN. Is the Senator aware that as part of the original agreement between the industry and the attorneys general, the industry itself was the one that agreed to this? All they are doing here is increasing it. Is the Senator aware of that? And is the Senator aware that this puts him in a position which is far different even from the industry by attacking a proposal that was agreed to by the tobacco industry itself, who would——

Mr. NICKLES. I will be happy to answer the question.

Mr. MCCAIN. Have experienced these penalties, who would have been subject to them and obviously must have had some confidence in the survey the Senator is deriding; otherwise they never would have entered into the agreement because the penalties would have accrued to them. Is the Senator aware of that?

Mr. NICKLES. I will be happy to tell my colleague from Arizona that he makes a good point but he is absolutely wrong. What the industry agreed to, according to the settlement, is that they would pay $80 million per point of noncompliance, up to a total of $2 billion. What we have before us is two

surveys, penalties up to $4.4 billion, and an amendment to go to $7.7 billion.

Does my colleague from Arizona realize there is a difference between $7.7 billion and $2 billion? and that $5.5 of this new penalty is product-specific? and the industry did not agree to a product-specific penalty? These provisions were not in the industry settlement, as I am reading it right now.

Mr. GRAMM. Will the Senator yield?

Mr. MCCAIN. Did you ask me a question?

Mr. NICKLES. No.

Mr. MCCAIN. You didn't.

Mr. GRAMM. Will the Senator not agree with me that whether the tobacco companies agreed to it or not, that article I of the Constitution gives the Congress the power to tax? and that we ought not to be delegating that power to a poll?

Mr. NICKLES. I agree totally. And I also tell my colleague and friend from Texas, I wasn't part of the tobacco companies' deal. I am part of the Finance Committee. And I think if we are going to legislate on taxes, we ought to do it right. This is not the right way to tax.

I will also tell my colleague from Texas, I have heard people say the tobacco industry is confident they can challenge these look-back assessments and win in court and have it thrown out as unconstitutional. Regardless of the constitutional argument, I say this is a crummy way to tax. I don't want to give the Secretary of the Treasury the authority to conduct a poll and then determine that the poll is accurate, proper, correct for purposes of this act, and be able to make assessments. Under the agreement the tobacco companies agreed to, it was up to $2 billion. Under the bill that came out of the Commerce Committee, it was $3.96 billion. Under the bill the administration wrote and introduced on Monday, it came up to $4.4 billion. And on the amendment we have pending now, it is $7.7 billion, also indexed for inflation.

The industry did not sign off on any $7.7 billion look-back.

Mr. GRAMM. Will the Senator yield further?

Mr. NICKLES. Yes.

Mr. GRAMM. Just two questions. No. 1, you are not here to represent the industry, are you?

Mr. NICKLES. No, sir. I could care less——

Mr. GRAMM. Second, when you put your hand on the Bible and you swore to uphold the Constitution of the United States against all enemies, foreign and domestic, you were not saying, well, I'll uphold the Constitution and article I, the power of Congress to tax, only in those cases where the tobacco companies didn't agree to let a pollster raise taxes, did you?

Mr. NICKLES. The Senator is absolutely right.

Mr. McCAIN. A ''pollster''?

Mr. NICKLES. I got on the Finance Committee because I did not like the way our tax system was structured. I want to work with our colleagues from Mississippi and Texas, to take the Tax Code and rewrite it and come up with something that is fair, flat, and simple. This is tobacco bill just the opposite. This is a mess. We could clean this bill up a lot if we went through the conventional process, if we had the Finance Committee mark up this bill on the tax side and call a tax a tax.

Instead, we have this unbelievably complicated system, and the look-back is maybe the most complicated. Delegating to the Secretary of the Treasury to take a poll, and then, if they don't meet the targets that we set, we are going to assess them billions of dollars, up to $7 billion or $8 billion, I find to be ludicrous. It doesn't make sense. It is not a good way to legislate.

That is the reason that the Commerce Committee doesn't have taxation power, in the Senate. In the Senate, the Finance Committee has the power to raise taxes.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. NICKLES. And not the attorneys general and not the Commerce Committee.

I will be happy to yield.

Mr. MCCAIN. I thought the Finance Committee did take up this issue and ended up raising taxes, and doing all kinds of other havoc to it in 24 hours. I wonder what they would have done in 72.

Mr. NICKLES. I will tell my friend and colleague, the Finance Committee did consider this bill for 24 hours. I didn't support their $1.50 tax increase, but I think their $1.50 tax increase is a lot more honest, is a lot more plain, a lot more doable. We have excise taxes on tobacco today of 24 cents. Congress last year, when we passed the kid-care bill, increased that another 15 cents. So, tobacco taxes are going to 39 cents already in present law.

People say that the Commerce Committee bill, the administration bill, increases that another dollar and a dime. That takes the tax to $1.49. But they do not call it a tax, they call it a fee. So we are telling everybody who is in this industry—and we have wholesalers and distributors and so on—that the tax is $1.49 and it is increasing. But that bill, the bill that we have before us, doesn't saying anything about a dollar and a dime. It says put all these billions of dollars into a fund. That is not very workable. It is not very legitimate. I think we should have the committees of jurisdiction take this bill.

The Finance Committee did take the bill, but unfortunately the Commerce Committee and the administration looked at our changes, and they just ignored them. They dropped the changes that the Finance Committee made.

I resent having the Commerce Committee write the tax portions of this bill as well as I resent the Commerce Committee writing the ag portions of the bill. And I think those are two of the more contentious and two of the more difficult things that we have to deal with. The committee that marked it up didn't have, in my opinion, the taxation expertise, they didn't follow the same taxation procedures that we have on every other excise tax in history. And, frankly, I think the Agriculture Committee should have written that instead of the Commerce Committee as well.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Is the Senator—has the Senator from Oklahoma completed his remarks? Were you through with your remarks?

Mr. NICKLES. Yes.

MORNING BUSINESS

Mr. LOTT. Mr. President, I know we are having a lot of fun here, but for the information of all Senators, there will be no further votes this evening. The Senate has tried to work out an agreement that would resolve the impasse that we have right now parliamentary, and with regard to the substance of those amendments, but we have not been able to get that worked out yet. There are very strong feelings on both sides of the amendments that are pending, so I can understand that. So, since we haven't worked out an agreement, I now ask there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas reserves the right to object.

Mr. GRAMM. Would it be possible for us to just have a short final statement on this issue? Or would you prefer we do it—

Mr. LOTT. I would prefer you do it in morning business, because if you had a short final statement, there would need to be a short final reaction. I see the Senator from Massachusetts is anxious to get recognition.

Mr. GRAMM. In that case, it is not worth it.

Mr. LOTT. You can continue in morning business.

Mr. GRAMM. Thank you.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, tomorrow we will convene at 9:30, and there will be 1 hour for morning business, and then we will begin consideration of two items tomorrow, calendar No. 299, H.R. 2709, relative to Iran sanctions, with a total of 3 hours for debate. We already entered into an agreement back before the Easter recess as to how this issue would be considered, on or before May 22. So we will have this issue up tomorrow. There could be an amendment offered by Senator LEVIN. But we hope to get that up tomorrow.

I won't even announce at this moment exactly which one of these two bills will come first, because we will need to see, for instance, if the ISTEA highway and infrastructure bill is ready to go. As soon as we get it, we want to take that up. But it will be the Iran sanctions issue, and then we will consider and dispose of the ISTEA conference report. So, votes will occur tomorrow, probably at least one, maybe two or three. It will depend on how these issues develop.

Some people are saying, Will the ISTEA conference be completed? I am told by the leaders that they will be able to complete it tonight. They may need a little extra time in the morning to make sure that Senators who are affected one way or the other have been briefed as to exactly what is in it, but they know that we need to complete this legislation before we go home for Memorial Day recess, and we should be committed to get that done.

With that, I yield the floor and the morning business would be in order.

Mr. FORD. Will the majority leader yield?

Mr. LOTT. I am happy to.

Mr. FORD. I approve of what you have been doing. I think you have a hard job and you have done well. One thing that bothers me—you come to Kentucky to see friends and family one of these days. There are a lot of holds here and a lot of people are caught up in holds that have nothing to do with the disagreement among Senators. Next week, the Uranium Enrichment Corporation will make a final decision on whether they go public or whether they go sell to an individual. And we have one member who needs to be on that. She has been held up 4 months now, and that vote and that expertise, for 4 years, needs to be on that board.

I hope that somewhere—it is on our side as well—but when I get our side worked out, then it comes back on that side.

Mr. LOTT. If I can say to the Senator from Kentucky, I know he is interested in this nominee. Over a week ago, I believe, we had it cleared.

Mr. FORD. We did until we got problems on this side.

Mr. LOTT. Then I thought we worked it out again, and another problem popped up.

Mr. FORD. Oh, yes.

Mr. LOTT. But I think we will take another run at it tomorrow and see if we can maybe work it out.

Mr. FORD. The only reason I am asking is, we have the budget process. The Senator from New Mexico, Senator DOMENICI, has worked hard on this. It should not be jammed up because of a hold on the Senate floor for an individual who has nothing to do with it, and it is jeopardizing the budget process, because funds are in there as it relates to the sale of this item.

So I just—I plead with you, if you can, and I will do the best on my side, and if somehow, tomorrow, we will not be back, able to do it—and I do not want a recess appointment. It will all be over before the year expires. I don't like to do recess appointments.

Mr. LOTT. I will say to the Senator from Kentucky, I realize Margaret Greene——

Mr. FORD. Yes.

Mr. LOTT. Needs to be released. We also have worked out, I believe, an agreement that involves releasing Mr. Barry for the Department of the Interior and Mary Anne Sullivan to be counsel at the Department of Energy. We would like to move all three of those.

Mr. FORD. I agree with that, and I will try to help. My pleadings have fallen on hard times.

Mr. LOTT. We will work on it tonight and tomorrow. Keep working on it.

Mr. FORD. I appreciate it. I want you to know—I want everybody to know—we are trying to operate in an efficient manner, and other things are jeopardizing the ability to do it in an efficient manner.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank the Presiding Officer. I will proceed in morning business.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

Mr. MCCAIN. Mr. President, I need to respond, of course, to the Senator from Oklahoma who somehow now regrets or complains about the fact that this legislation went through the Commerce Committee. My understanding is, unless I am having some mental lapse, that the decision was made by the leadership to move the bill through the Commerce Committee.

My understanding is that was the instruction of the distinguished assistant majority leader and the other members of the leadership, to move it through the Commerce Committee, because it was clear it was not going to go through the other committees. Now the Senator from Oklahoma seems terribly distraught that it didn't go through the other committees when he was the major person to move it through the Commerce Committee.

Mr. NICKLES. May I answer to that?

Mr. MCCAIN. I will be glad to yield, if the Senator from Oklahoma has a short question, because we are operating——

Mr. NICKLES. I don't have a question. I want to respond.

Mr. MCCAIN. If you don't have a question, then I suggest you wait until the expiration of my time.

The second point is that the Finance Committee did insist, insist, insist and got this bill, and they came up with a result that the Senator from Oklahoma didn't like. There were amendments pending, that is my understanding, in the Finance Committee—I was watching on C-SPAN—that would have done even more damage to the legislation, at least from the viewpoint of the Senator from Oklahoma, who thinks that the bill is too encompassing, too large a tax increase, et cetera, which he has spoken at length about on this floor today. I am curious about what would have happened if the Finance Committee had kept the bill even longer.

As far as the Agriculture Committee is concerned, the Agriculture Committee bill is in the bill as a result of the majority leader inserting it. The Senate will have its way on that.

But I want to come back to the fundamental issue of the look-back provision. Mr. President, I didn't invent the look-back provision. It wasn't my idea. I have very talented staff and advisers and friends. The look-back provision came from the agreement that was entered into by the attorneys general of the 40 States and the industry.

Have they changed? Yes, the look-back provisions have changed. Should they be changed back? Should I support the Durbin amendment? No, because I think it makes it worse. But the look-back provision concept was generated by the belief of every public health group in America that you can't trust the tobacco companies.

Perhaps the Senator from Oklahoma and the Senator from New Mexico and others trust the tobacco companies and believe that they will really try to reduce teen smoking. They may do that, but most observers believe that after commitment after commitment and promise after promise and lying to Congress about the fact of whether they enticed kids to smoke or not, the fact is we found out they did. So the look-back provision, I inform my colleagues, does not mean you have any connection with the tobacco industry, but you ignore the fact that the tobacco industry can't be trusted, and unless there are penalties involved, then the industry will not do what they say they will do, because they have already said they would try not to entice kids to smoke, and they did. That is the reason for the look-back provision.

Philosophically, that may not be something that is acceptable to the Senator from Oklahoma, the Senator from Texas, or the Senator from New Mexico. But the reality is that is the view of every public health organization in America. Every living—every living—Surgeon General in America today has said you have to have these provisions in the legislation if you want to attack the issue of kids smoking.

That is the view—and we have the letter, I have the letter from the Surgeons General, every Surgeon General since 1973. Perhaps those who oppose this know more than they do. I don't know, I don't know more than they do.

With startling candor, Dr. Claude Teague set forth the plain facts about the addictive nature of nicotine in his chilling 1972 internal memorandum discussing the crucial role of nicotine. He said:

> Happily for the tobacco industry, nicotine is both habituating and unique in its variety

of physiological actions. Realistically, if our company is to survive and prosper over the long term, we must get our share of the youth market.

''We must get our share of the youth market.''

I commend this to the reading of the Senator from Texas and the Senator from Oklahoma. It is clear that the tobacco companies attempted to entice youths to smoke. So, therefore, in the agreement made by the tobacco companies, freely entered into by the tobacco companies, there were look-back provisions. Perhaps the Senator from Oklahoma doesn't like the size of them, but it is hard for me to understand how he can argue against the rationale behind it.

Another slip occurred——

Mr. NICKLES. I will be happy to answer it.

Mr. MCCAIN. In 1987, just months before the national launch of the Joe Camel campaign, on October 15, 1987, a memorandum stamped ''RJ secret'' from a file that, incredibly, bears the name ''youth target'':

Project LF is a wider circumference nonmenthol cigarette targeted at younger adult male smokers, primarily 14- to 24-year-old male smokers.

I can go through document after document for the Senator from Oklahoma. What I am asking him to understand is why these look-back provisions are there, because the tobacco companies tried to entice young people to smoke, and here are the documents. In the agreement of June 20, 1997, the tobacco industry admitted that they had enticed kids to smoke. Therefore, since they could not be trusted, then there should be provisions that penalize the tobacco companies if, indeed, youth smoking went up, which they are committed not to do. That is something in which they freely engaged.

I can understand if the Senator from Oklahoma has a problem with the size of those look-back provisions. I cannot understand why the Senator from Oklahoma would not understand why the look-back provisions are there. When we talk about all the adjectives that the Senator from Oklahoma has described these look-back provisions, the facts are, according to every living Surgeon General, according to every public health organization in America, according to Dr. Koop, according to Dr. Kessler, according to every health expert in America, the fact is there has to be provisions that will punish the tobacco companies, as well as incentivize them to stop and reduce teenage smoking.

Now that, I suggest, is reality. Again, I am not speaking from my knowledge and expertise. I am not speaking from my background. I have to go, when I don't know about issues, to the experts. It is rarely that I find experts who are completely in agreement on an issue, and every expert in America is unanimous in saying we have to have some provisions that punish the tobacco companies if they don't do what they say they are going to do.

When the tobacco industry entered into the agreement, they promised to do everything they could to reduce teen smoking. That was part of the agreement they entered into. So how in the world somebody would say that when you swear to defend the Constitution of the United States that you would totally disagree with every health expert in America, frankly, is something I don't understand.

These proposals have been pummeled pretty heavily for the last couple of days, including from the Senator from Texas who has been here quite awhile, and including others.

I want to say, I am coming to respond to this because this legislation is based on an agreement the tobacco industry voluntarily entered into. It seems to me the Senator from Oklahoma's and the Senator from Texas' problem is not with this legislation, it is with the original agreement. And, frankly, they have every right to disagree with it.

But the reason why many of the provisions were put in that legislation and were entered into was because the best minds in America on this issue said, ''You need look-back provisions, you need to restrict advertising, you need to have programs that have to do with youth cessation, you need to have research, you need to have funding for the NIH and the Centers for Disease Control. This is what you need in order to stop kids from smoking.''

Mr. NICKLES. Will the Senator yield?

Mr. MCCAIN. Now, if you want—for a question, I would be glad to respond, which is the normal—

Mr. NICKLES. The Senator used my name about 14 times. I would like to respond, because you made a couple allegations I resent and I would like to respond. But I would like to make a statement, not a question. I would like to make a statement. It would only take me about 4 minutes. But I would like to respond since my name has personally been mentioned, I think, 14 times. I am counting.

Mr. MCCAIN. Of course the Senator from Oklahoma's name has been mentioned, because I am trying to respond to the Senator's statements about the legislation. If he would prefer I not mention the Senator from Oklahoma or saying a certain Senator, but I listened very carefully as a certain Senator attacked this legislation very strongly, in all candor and sincerity.

Mr. GRAMM. Will the Senator yield?

Mr. MCCAIN. I am trying to respond to those comments that were made about the legislation. I think that is the normal give-and-take of debate here on the floor. I am saying that—

The PRESIDING OFFICER (Mr. SESSIONS). The Senator's time has expired.

Several Senators addressed the Chair.

Mr. NICKLES. Mr. President, I will be brief. I know my colleague from Texas has been waiting to speak on the amendment. But there were a few things implied by my colleague's statements, the chairman of the Commerce Committee. He said, ''The Senator from Oklahoma doesn't agree with the look-back assessments that were part of the attorney general's agreement. And if the tobacco companies agree to it, why would he be opposed to look-back?''

I was not part of that agreement. I think my colleague from Arizona once said, ''Why don't you introduce the tobacco settlement so we can mark up from that bill?'' I did not do it. The chairman of the Commerce Committee did. I did not do it because I was not comfortable with it. I did not do it because I do not want to introduce a bill that says tobacco companies will be exempt from class action suits.

I did not do it because I looked at look-back assessments and said, ''That's no way to tax.'' I think there is a right way to tax and a wrong way to tax. This is the wrong way to tax. And so to attack me and say that if I am against look-back penalties I am also against every health professional or expert is ridiculous.

I think this is a crummy way to tax. I have told my colleagues, you want a tax? Tax. Call it a tax. Don't hide behind saying, ''It's a fee. It's an assessment.''

I just read the attorneys general's deal with the tobacco companies. They did not say anything about having a survey and deeming it ''proper and correct'' and so on. My point being, I am not part of the deal that the attorneys general negotiated. They did not ask me. I am part of the Finance Committee, which is responsible for raising taxes. This Congress has already raised tobacco taxes. And if Senators want to increase them again, they have the right.

We raised the tobacco tax last year. I did not vote for it. I do not know if my friend and colleague from Arizona did or not. But we increased tobacco taxes last year 15 cents. The increases have not gone into effect yet, but they will. They are on the books. And that is the way we should do it. That is the way the system works. This convoluted system of industry payments going up to $1.10, plus look-back penalty is wrong. Originally the look-back was $2 billion in the settlement, and then the Commerce Committee bill was $3.96 billion, and then the bill that was introduced on Monday that we have before us is $4.4 billion. And then the amendment that was offered this afternoon goes to $7.7 billion.

I am just saying this is not a workable tax. And I did not agree to the tobacco settlement. So my colleague from Arizona, I believe insinuated that I support the tobacco companies. I do not support the tobacco companies. I just think this is a crummy way to tax, and I resent this idea that whoever opposes look-back is supportive of the tobacco industry.

Mr. MCCAIN. Could I—

Mr. NICKLES. That is not true.

Mr. MCCAIN. If I could comment, I in no way intended that——

Mr. NICKLES. I appreciate it.

Mr. MCCAIN. In any way, that implication, I say to my friend from Oklahoma. I said on numerous occasions that his views on this are sincere and heartfelt. I hope the Senator understands that. And I say, I understand that my colleague from Oklahoma knows that I have been here for a number of days now, and there have been assaults not only on the bill itself but on the committee.

You made some remarks about it, et cetera, and I just felt I would defend it. But at the same time, the Senator from Oklahoma is sincere in his beliefs, and they are held with integrity. And I do not in any way imply that there is any relationship there. I wanted to clear that up.

Mr. NICKLES. I appreciate that.

I am going to make two other very quick remarks. One, the negotiated look-back with the attorney generals was not product specific. And the amendment that we have before us goes to $5.5 billion in penalties on a product specific basis, which means we are going to do a survey on every tobacco product used by teenagers and assess penalties on every single product. Now, isn't that bureaucratic, isn't that a mess.

I hope people will understand this is a big expense. And some people think it is a move in the right direction. I think it is a move in the wrong direction.

Before my colleague from Arizona leaves, he said, ''Didn't Senator LOTT ask Senator NICKLES to head this tobacco effort up and pull all the committee Chairs together,'' and we then assigned the responsibilities to the Commerce Committee chairman?

I say that when I was involved in this particular phase of it, that the linchpin of granting immunity—and I see that as a linchpin in this legislation fell to the Commerce Committee. If there was going to be a deal—and that is what the attorneys general's settlement was predicated on—the fact that if you grant tobacco companies limited immunity from class action suits, they will pay so many billions of dollars, about $15 billion.

Now, conceivably, that could be put in the Commerce Committee. But I really believe that the Finance Committee should have jurisdiction over the tax. I have been upset about it ever since. I do think that if we are going to have a tax, we ought to call it a tax. We should not hide behind fees and we should not have look-backs assessments. I think these issues are the responsibility of the Finance Committee. And I think if we did that, we would tax tobacco just like we always taxed tobacco.

I think the Commerce Committee, with all due respect, did a crummy job. Its bill has different prices for different brands of snuff. It exempts some tobacco companies from a tax. It hits other tobacco companies hard. I find that to be inequitable. I think the tax should be so much per product, and let us just say how much a pack it is, how much a can it is and how much a pouch, so people will know. I believe that very, very strongly. And so I communicate that to my friend and colleague.

I appreciate the fact that my friend from Texas has been so patient. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we have debated this thing all week. We are in morning business and we are carrying on the debate, so I guess it shows people feel strongly about it.

I want to make it very clear what the issue is on this look-back provision. The Senator from Arizona acts as if by the tobacco companies agreeing to the procedure that somehow that sanctifies this procedure. The Senator from Arizona acts as if by the public health experts believing we should have a penalty that somehow that sanctions this look-back provision.

My concern with the look-back provision is not that it is a penalty; my objection to the look-back provision is that it is clearly patently unconstitutional. And it is unconstitutional on two bases. No. 1, the Constitution, in article I, says it shall be the power of Congress to lay taxes. The most fundamental power of Congress is to tax. This bill delegates the power to tax to a public opinion poll and to the Secretary of the Treasury —clearly unconstitutional.

Secondly, this bill puts a company in a position that if they have no control over the decision of a 14-year-old, and the 14-year-old makes a decision, that company can be punished for the decision of the 14-year-old, even though there is no evidence whatsoever that they have had any impact on that decision. Clearly, that violates British common law and it violates the Constitution of the United States.

So the point I am making is not that public experts don't have a position, not that tobacco companies don't have a position, not that the Senator from Arizona doesn't have a position, but there is a Constitution. When we all stood right down there below that first step and put our hand on the Bible and swore to uphold the Constitution against all enemies, foreign and domestic, we made a commitment, one I take very seriously.

So the problem with this provision besides it being absolutely comical—who would have ever thought we would have a bill where you would do a public opinion poll, and based on what 12- and 13-year-olds say in a public opinion poll, you would have a pollster, in essence, empowered to raise taxes? Who ever heard of such a thing? Not only does this not pass the Constitution test, this doesn't pass the laugh test. This is one of the most absurd provisions I have ever seen.

Now, granted, if our only defense of it is, well, the tobacco companies supported it, I didn't know that we had turned the writing of law over to the tobacco companies or the health experts or the public choice advocates.

My point is, this provision is embarrassingly silly and unconstitutional. I would be ashamed to vote for a bill that had a provision in it where you let a pollster's finding trigger tax increases, rather than an act of Congress, where Congress, in general session, assembled, passes a tax bill that is signed by the President. That is the issue we have raised here—not who cut what deal and who signed off on what, but, basically, two very relevant tests: No. 1, the Constitution test; and, No. 2, the laugh test. I think this provision fails both of those tests.

I think the more people know about these provisions, the less support there is going to be for this bill. To the extent that we draw public attention to this, perhaps we will come to our senses, and if we want to make taxes higher, make them higher. But don't empower some pollster to take over the constitutional powers of the Congress. It won't stand constitutional muster for a minute, and it makes us potentially the laughingstock of the public. That is what the issue was about—not that all of these so-called advocates for the public interest support the provision, not that the tobacco companies have endorsed it. The question is: Is it constitutional, and is it laughable? The answer is: No, and yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from Texas has indicated that the bill is unconstitutional with respect to the look-back provisions. We have an opinion from the Congressional Research Service on the look-back provisions, and this is what they say: ''We conclude that the bill which may be refined further in the amendment process does not appear to pose serious constitutional concerns and would seem to satisfy a showing of rationality and legitimate government action.''

So while the Senator from Texas has determined this bill unconstitutional, the Congressional Research Service says otherwise. They say this bill is constitutional. They say that it will satisfy a showing of rationality and legitimate government action.

We have heard a lot of arguments out on the floor today. We have had a number of Senators dominate the discussion, and, frankly, I had begun to wonder if they were afraid to debate and afraid to vote. That is what is going on here. We are in the ''stall,'' because some are afraid to debate and they are afraid to vote. They won't even allow a debate to occur out here on the floor. They reject any interchange, any discussion. Instead, they just want to give speeches to stall and delay.

So, maybe it is time for us to have a debate. I don't know why they won't

come out here and debate. Let's have a debate, and let's see what the American people conclude after that.

Now, we have heard all day that this is disproportionately affecting the lowest-income people. This is a levy on them. The first thing I point out is, people choose what they do. Nobody is going to pay a penny of tax if they don't go to the store and buy the cigarettes. They don't have to do that. There is no requirement to do that. This is no levy on their income; this is their choice.

Our friends on the other side of the aisle talk about personal responsibility. This is a question of personal responsibility. It goes beyond that. Nobody is talking about the taxes imposed on all the rest of us who are expected to pick up the tab because this industry imposes costs on society that aren't being covered by them. Mr. President, the rest of us are being expected to pay taxes, to pay the Medicare bill estimated at $22 billion a year imposed by this industry. The Medicaid Program has over $11 billion a year of cost imposed on them because of this industry. That is not covered.

How did we get here? We got here because State attorneys general sued the tobacco companies—sued them. And the basis for the lawsuit was, the tobacco industry was imposing costs on State Medicaid Programs. Of course, part of State Medicaid Programs is financed not only by State taxpayers but by Federal taxpayers. Federal taxpayers have had costs imposed on them because of the use of tobacco products. It is only fair to the vast majority of people who don't smoke that they have some of these costs relieved from them. Three-quarters of the people in this country do not smoke, and they are being expected to pick up the tab for the industry's actions, for what this industry has done. That is not fair. It is time to redress some of this balance. The three-quarters of the people who get stuck with the bill each and every year say, ''Wait just a minute now. It is time for this industry to pay a fuller share of the costs it imposes in this society.''

The best estimates we have are that the use of tobacco products costs this society $130 billion a year. Those are the costs being imposed by this industry. People smoke 24 billion packs of cigarettes a year. So the costs per pack being imposed on this society are $5 a pack. Those are the costs being imposed by this industry on all the rest of us. Who is paying that tab? Every other taxpayer, every single one that doesn't smoke, is being stuck with that bill.

We are saying it is time for the industry to start paying a fair share of the costs that it imposes on this society and all the rest of us. That is just a matter of fairness.

Now, why do we have look-back provisions? Senator MCCAIN is precisely right: The reason there are look-back penalties imposed is because this industry has a history of going after young people. They try to addict them because they know they become lifetime smokers, and they know if they don't get them young and early, they don't get them.

If there is any question about what this industry has done, let me go back to my top 10 tobacco tall tales. No. 7 was, ''Tobacco companies don't market to children.'' Here is their own document, a 1978 memo from a Lorillard tobacco executive. These are not words, these are the words from a tobacco company executive: ''The base of our business are high school students.'' That is the base of their business. They know what the base of it is. That is why they have been going after kids with their marketing and advertising campaigns for years.

Tall Tale No. 8: Again, the claim, ''Tobacco companies don't market to children.'' Their own documents, a 1976 R.J. Reynolds research department forecast: ''Evidence is now available to indicate that the 14 to 18-year-old-year-old age group is an increasing segment of the smoking population. RJR must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.''

What could be more clear?

They are going after kids with advertising, with marketing, because they understand they are the base of their business.

Tall tale No. 9: Again, the claim that the tobacco companies don't market to children.

From their own documents, a 1975 report from Philip Morris researcher, Myron Johnston:

> Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data . . . shows even higher Marlboro market penetration among 15–17-year-olds.

This is why it is necessary to have a look-back provision. This is why it is necessary to say, if you do not achieve the goals for reduction of youth smoking, you are going to pay an economic penalty, because nobody knows more about marketing to kids and how to successfully hook them than the tobacco industry. They spend hundreds of millions of dollars learning how to effectively get across to them. And they are the only ones that have the best information, or I should say they are the ones who have the best information on what might work to allow youth smoking to decline. The best way to get an effect of what we are serious about here, reducing youth smoking, is to give the companies an economic incentive to achieve those goals.

Unfortunately, in the McCain bill most of the penalty is given on an industry-wide basis. The Durbin amendment is seeking to shift that so most of the penalty is on a company-specific basis. Why? First, if you punish everybody equally you punish the good with the bad. Unfortunately, that is what the McCain bill does because they put most of the penalty industry-wide. It doesn't matter if you are a good company and you really achieve the goals for reducing youth smoking, or you are a bad company. You still pay the penalty. That is not individual responsibility. Frankly, that is socialism. That has everybody in the pot together, good or bad.

Second, having a penalty that is largely based, industry-wide, creates a perverse incentive. With an industry-wide penalty, if a company does the right thing and reduces youth smoking, it still pays the penalty. In fact, it pays twice. It pays the penalty, and it suffers the loss of market share from not addicting young kids. What a perverse incentive that is.

Mr. President, the third point that needs to be made is that because all the companies will pay the same surcharge, they can just treat this as a cost of doing business and pass that surcharge along to the customers.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CONRAD. Mr. President, I ask for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, it all boils down to the question at the bottom, which is, What are we going to do to reduce smoking in this country? Why is that the goal? Because we have 400,000 of our fellow citizens dying every year from smoking-related diseases. It is the No. 1 health challenge in the country that is avoidable. It is No. 1. There is nothing else that kills this number of our fellow citizens. The estimate is for every three that are smoking, one will die of smoking-related diseases.

I have held hearings now all across America. Everywhere we have gone people have come forward and described the agony and the tragedy caused in American families by the use of this product. This is the only legal product in America when used as intended by the manufacturers that addicts and kills its customers. There is no other product that fits that bill. The only one, the only legal product, when used as intended by the manufacturer that addicts and kills its customers.

People in this country are asking us to stand up and do something to help them—to help them keep their kids from using this drug, and a drug it is—to help them avoid the disability and death that attends the use of tobacco products. We are not going to prohibit the use of tobacco because we have 45 million people in this country that smoke. We don't have a very good history with prohibition.

We can do something to help American families deal with the agony caused by the use of these products. We should not avoid the opportunity to act.

I thank the Chair. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business with Senators to speak for up to 10 minutes each.

Mr. BIDEN. Mr. President, I thank the Chair.

(The remarks of Mr. BIDEN pertaining to the introduction of S. 2110 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BIDEN. I thank the Chair.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, we are ready to close down the Senate tonight, and we are about ready to end, really, the debate on the tobacco bill for this week. This bill will be back in the Chamber. We will be debating it in the future. I think we got off to a very good start. No one ever said that this was going to be an easy bill. This is a very complicated bill. Congress is doing something we have never done before. It is very complex. So we knew going in it was not going to be easy.

Nothing important ever is easy. It is important that we continue to push on because there is a lot at stake. I would submit what is at stake, really, is the future of tens of thousands of our young people. We all know the statistics. We all know what the facts are. We all know how important it is we stop young people from starting to smoke. We know the reality that if the child does not start tobacco use at 19 or 20, hasn't smoked, the odds are the child isn't going to smoke. We also know most people start when they are young, start when they are way underage and it is illegal to smoke, cannot smoke if they do, and we know that is when they get started.

We have heard the statistics. We know the statistics about the 3,000 children starting to smoke every day. We know the statistics that roughly a third of them will die premature deaths, some horrible deaths, because of smoking. So I think we all know what is at stake.

I think it is important as we complete this week to remind ourselves that, yes, it is tough. This is a tough bill. This is a tough world. This is contentious. But that is what we get paid to do. That is why people send us here—to make tough decisions. I think we need to remind ourselves that this really is a historic opportunity. It is a historic opportunity that has been presented the country, and has been presented this Senate, and has been literally put in our laps. We can either take up this opportunity and do what is right and do something very constructive, or we can pass it by. This is a historic opportunity. It was really given to us because of the settlement that was announced last June by tobacco companies and by the attorneys general, an unprecedented settlement, a settlement that cannot go into effect without a comprehensive bill passing the Senate, passing the House, and ultimately being signed into law by the President.

Let me commend Chairman JOHN MCCAIN for the work he has done in bringing this bill to the floor. Let me commend him for the work he has done this week, keeping this process moving forward. It is clear that, if we are going to reduce teenage smoking, there has to be a comprehensive approach. It is like most things in life, there are no simple answers. If there were simple answers, we would have found them a long, long time ago.

Raising the price of cigarettes, raising the price of tobacco, is an important element to reduce teenage smoking. There is an inverse relationship, clearly, between the cost and the use. But we also know, based on every study that we have seen, everything that we have looked at, I think most of us have come to the conclusion that raising the price of cigarettes alone will not do it, that we have to do other things. We have to stop the advertising for cigarettes that appeal directly to children—get rid of the Joe Camels, or those who will follow Joe Camel; get rid of the Marlboro Man; get rid of the cartoon figures; get rid of the advertising that any parent looks at for 1 second and knows this is clearly targeted at children or, if it is not targeted at children, at least has a tremendous appeal for children. That has to be stopped.

We have to have counteradvertising. We have to take all the ingenuity of Madison Avenue and use it, instead of killing people, use that ingenuity and use that talent to save kids. It is available, and it is out there, and we can do it.

We have to worry about law enforcement. Again, it is no different than dealing with drugs in that respect. You have to have education, you have to have advertising, but you also have to have law enforcement. We risk, as we increase the price of cigarettes and tobacco, expanding the black market that already does exist in this country. We have to worry about that. We have to worry about the enforcement of the laws that every State has about underage smoking. We have to figure out better ways to enforce that law.

So, we have to do all of these things. And as we proceed in the weeks ahead on this bill, and as we talk about it and we debate it and argue this point and argue that point, let's keep our eye on the ball. Let's keep our eye on the objective. For this Senator from Ohio, at least, there is only one objective, and that is to reduce the number of our kids who start smoking. If we can do that, if we can do it in significant numbers, we will have accomplished a great deal.

That is what this bill that Senator MCCAIN has brought to the floor is all about, and that is what we have to get accomplished. This is a historic opportunity. It is a unique opportunity.

Let me talk for a moment, if I could, about the amendment that Senator DURBIN and I have brought to the floor this evening. It is an amendment that we believe will make a difference. It is an amendment that will bring about more accountability, hold the tobacco companies responsible, make them liable for their actions, make them more accountable, and we think will make them do the right thing.

Our amendment deals with what we call look-back. I think we have to keep in mind—I have had the opportunity to listen to a portion of the debate from some of my colleagues who followed Senator DURBIN and myself, Senator WYDEN—who spoke in favor of the amendment. I have listened to what some of my colleagues who have raised some questions about the amendment have had to say.

In response, let me make a couple of comments. First of all, the people this is targeted at, the people we are targeting, are the tobacco companies. And the tobacco companies agreed to a look-back provision. They agreed to a very, very significant look-back provision. That was the provision which was included in the settlement that was announced last June. So they agreed to it. They are the ones who thought they could meet the 60-percent reduction target in 10 years, and that is a significant target. But they said, ''We can do it.'' So this isn't something that we dreamt up here in the Senate; this is something that the parties looked at, and all of them said, ''We can do it.'' And it is clear that they can.

It makes sense, I think, what we have done in the Durbin-DeWine amendment. That is, we have taken JOHN MCCAIN's very good look-back provision, and I think we have improved it. We have made it more company-specific. What do you mean, company-specific? The original look-back provision was an interesting provision, really, in the sense that it was socialism. I don't know any other word to describe it.

It basically said: Look, here are the targets. The tobacco companies agree on these targets. We are going to look back, after 3 years, and then after a few more, and ultimately after 10 years. And every few years, we are going to look back and see if the tobacco companies are hitting their targets in reducing teenage smoking. They said: We can get to 60 percent reduction in 10 years. And we phase that in—they phased it in, in their agreement, over that period of time.

Every so often, we are going to look to see how we are doing. And if we determine that the reduction is not taking place, or the targets are not being hit, then the tobacco companies agreed—let me emphasize again—agreed that they would pay a penalty.

The interesting thing is, when this was put together, however, how the

penalty was calculated. The agreement was that it would be calculated industry-wide. So you would look to see what the total reduction in teenage smoking was. And then, each company—you figure out what that total penalty was. It is the penalty the tobacco companies agreed to. You take that pot of money, that penalty pot, and you divide it up among the tobacco companies, based on their total market share. So if one tobacco company had 30 percent of the market, they would get 30 percent of the cost of the penalty, irrespective of whether or not they were a leader in the sale of cigarettes to young people or whether they didn't sell a cigarette to a young person; it didn't make any difference.

We looked at this and came to the conclusion that it really didn't make a lot of sense to base it entirely on that procedure. We came to the conclusion that the tobacco companies should be held accountable for what they did specifically. So we came up with this amendment with a variation of what Senator MCCAIN had done, where he blended the penalties, basically making part of the penalties being applied industry-wide—that form of socialism we talked about—part of the penalties being applied case by case, company by company.

We have kept a blend in the Durbin-DeWine amendment, but we put more emphasis on company-specific. We think it makes sense to hold the individual tobacco companies accountable for the reduction in their product that is being sold to kids. Now, some of my friends have come to the floor and said, ''Well, look, that's not really fair. Tobacco companies can't control what they sell to kids.''

With all due respect, that doesn't make any sense. They control it today. They control it by their advertising. They control it by whom they target. They control it by how they market the product. There is a reason that Marlboro has 62 percent of the market. There is a reason they beat everybody else out in getting the kids market, the illegal sales market, the kids-under-18 market. They have been darned good at it. So we have seen, decade after decade, these companies being very good at this and being able to figure out how they can target a niche market and how they can get into kids who are just starting to smoke.

To say that, now, if we give them an incentive not to do it, give them a disincentive and charge them not to do it and they agree not to do it, to say they can't control what they are doing makes absolutely no sense.

My colleague from Kentucky came to the floor and asked, I think, a very legitimate question—Senator FORD. He said—I will paraphrase what he said, but, basically: Look, you are holding the tobacco companies liable. But the Government is going to be the one who is going to be doing the counteradvertising. And the Government is going to be doing other things to reduce teenage smoking.

I think the answer to what Senator FORD said is, yes, that is correct, the Government is going to be involved in countermeasures. The Government is going to be involved in trying to reduce teenage smoking. But that doesn't mean the cigarette companies will still not be players and still will not have things that they can control.

Make no mistake about it, under this bill or any of the different versions of this McCain bill, tobacco companies still are going to be able to impact how teenagers smoke, and whether or not their product is marketed to teenagers, and whether their product is sold to teenagers, and whether they target teenagers. How can they do it? Well, they can do it in many ways. They can do it by advertising. The bill has restrictions on advertising.

Yet, advertising is still going to be permitted. So how they target that advertising and what kind of advertising they place and where they place it is going to clearly impact on whether or not young kids underage buy cigarettes.

Tobacco companies will control that. They will control advertising. They will control how they market the product as they do today. They will control how they target the product as they do today. They can run, if they want to—and this is clearly within their control—their own antismoking campaigns aimed at kids. They clearly can do that.

We hope the more money they spend on that, the more emphasis they will put on that, it will reduce the consumption of their own product. Clearly, how the tobacco companies market and advertise will impact youth smoking. They have some responsibility. We have to hold them accountable.

My friends, particularly on this side of the aisle, always talk about accountability. We are in an age of accountability, whether we are talking about welfare or whatever we are talking about. We are in an age of accountability where people need to be accountable for their own actions. What the Durbin-DeWine amendment says is the tobacco companies ought to be responsible for their own actions; the tobacco companies ought to be judged not by what they say but by what they do. The tobacco companies ought to be charged and looked at and judged by what the results are. That is all we are saying.

I find that to be a pretty conservative point of view, and a point of view that most of my colleagues on this side of the aisle always talk about and, I think, support. If we look at it in this way, this is, in effect, a very conservative amendment.

Mr. President, the Durbin-DeWine amendment changes the incentives. We get rid of the profit motive. We give the incentive to prevent kids from smoking. We give that incentive to the tobacco companies.

Another issue that was raised a few moments ago in regard to the general look-back provision which our amendment contains and the McCain bill does, of course, is whether or not these surveys are accurate. The statement was made or the assertion was made, ''How in the world can you hold tobacco companies liable for surveys?''

First of all, they agreed to it. They agreed to it. They agreed to the broad survey of looking at the industry and looking at how much teenage smoking was occurring. They agreed to that.

Second, these same tobacco companies rely on surveys to do advertising. They rely on surveys to do everything in regard to marketing. Mr. President, I don't think there is one of us in this Senate who has not come to the floor when we talk about illicit drugs in this country, not a one of us has not come to this floor and cited statistics based on surveys about whether the consumption of drugs among our young people is going up or going down. We take them at face value, we rely on them, we make policy based on them and we make decisions based on them.

We have had a debate ongoing for the last 6 to 9 months in this Senate in which I have been involved on several different occasions where we have lamented the fact that among the very youngest of our children who are starting to use drugs, the consumption is going up at the same time the fear factor is going down. And we picked that up from the national surveys being done. Drug-Free Youth Group, we rely on that in our decisions.

I think it is clear that surveys scientifically done, correctly done, clearly can tell us what percentage of the youth market is smoking and what percentage of the youth market is smoking Marlboros. There is no doubt about it. We can come within a very, very close percentage, a fraction of a percentage of getting that figure.

Mr. President, let me conclude by again congratulating Senator MCCAIN for bringing this bill to the floor. It is a comprehensive approach. At the end of the day, when all the days are over and this finally made its way through the Senate, if we are going to have something worthwhile, it has to be a comprehensive approach.

We have to be concerned about driving up the cost, the price, because we know that will have an impact. We have to counter advertising. We have to have some control of the advertising and the cigarette companies ultimately need to agree to that.

As this process goes through, it is sometimes not a pretty process, it is certainly not an easy process, but it is our process, a democratic process, and I remain optimistic that we will end up with a comprehensive bill that will reduce teenage smoking significantly, that will save lives and that will be a bill of which we can all be proud.

TRIBUTE TO FORMER SENATOR GEORGE MITCHELL

Mr. LEAHY. Mr. President, April 10, 1998 was not only Good Friday and

Passover for millions of people around the world. It was a day that marked a beginning for the people of Northern Ireland. A beginning on a path toward peace after thirty long years of civil conflict that claimed over 3000 lives. Although a great deal of work lies ahead to ensure that the peace agreement signed in Belfast is adopted by all parties and faithfully implemented, the agreement is an achievement of immense historic significance.

Over the years, like so many Americans who are proud of their Irish heritage, I have wondered if I would live to see this day. Some years ago, not long after the first cease-fire began, I traveled to Northern Ireland and met with both Catholics and Protestants. Both longed for peace. Both asked me to urge President Clinton, who had taken a chance for peace when he granted a visa to Gerry Adams, to stay the course. We all knew there would be setbacks. We knew more innocent blood would be lost. But while some longed for a past that was gone and others for a future that could never be, most knew that violence could not bring peace and that the only way to a better life was through compromise.

The April 10th agreement represents the culmination of a tremendous amount of effort, and a great deal of courage, by many people. As party leaders, John Hume, whom I consider it a great privilege to call a friend, Gerry Adams, and David Trimble brought their constituents' longing for peace to the negotiating table and understood the responsibility history had thrust upon them and the need to find the middle ground. British Prime Minister Tony Blair and his Irish counterpart, Bertie Ahern, deserve enormous praise for putting the full weight of their offices and their personal reputations behind the negotiations.

Several other people I want to pay tribute to are former Irish Prime Ministers Albert Reynolds and John Bruton, and former Foreign Minister Dick Spring, who put the peace process in motion and labored day and night to keep it moving forward despite setbacks. Throughout this period Former Irish Ambassador Dermot Gallagher and his successor Sean O'Huiginn played a critical role keeping us informed here in Washington as they worked to further the peace process.

But I want to make particular mention of our former Senate colleague, George Mitchell, whose wisdom, steady perseverance and total dedication to the cause of peace enabled the parties to find a way to put the years of hatred behind them and look to a new day.

Senator Mitchell came from humble beginnings. Born to Lebanese and Irish immigrants in rural Maine, he worked his way through Bowdoin College and Georgetown Law School. As a federal judge and from the time he joined the Senate in 1982, he demonstrated patience, even-handedness and commitment to the public good. As Majority Leader, he served as an articulate national spokesman, a trusted colleague and a good friend.

As the first serving U.S. President to visit Northern Ireland, President Clinton made a commitment to the peace process early on, courageously put his prestige on the line by granting a visa to Gerry Adams, and showed great foresight in his appointment of Senator Mitchell as chairman of the negotiations. As I said at that time, I could not have imagined a person better suited to bring the sides together and forge a common path to the future. George Mitchell managed to do what many in the foreign policy establishment said was impossible. As the crafter of the agreement, he has given hope to millions of Irish citizens, and in doing so he has shown the world that even the most seemingly intractable conflicts, even the most bitter hatred, can be overcome.

Mr. President, an April 18, 1998 article by Mark Shields in the Washington Post gives a good description of Senator George Mitchell and his latest achievement. I ask unanimous consent that it 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, Apr. 18, 1998]

THE POLITICS OF PEACE

(By Mark Shields)

After hearing the happy news from Ireland that peace could actually break out there, I found my notes from a campaign speech given in 1993 by an American politician. This is what he said then about his earlier career as a federal judge:

''In that position, I had great power. The one I enjoyed exercising most was when I presided over what are called naturalization ceremonies.

''They're citizenship ceremonies. People who come from all over the world who had gone through the required procedures now gathered before me in a federal courtroom, and in that final act I administered to them the oath of allegiance to the United States. And then, by the power invested in me under the Constitution, I made them Americans.

''It was always a very emotional and moving ceremony for me because my mother was a Lebanese immigrant and my father was the orphan son of Irish immigrants.

''My parents had no education. My mother could not read or write English. And they worked—my mother in a textile mill, and my father as a janitor—all of their lives, to see that their children had the education and the opportunity they did not have. . . .

''And after every one of those ceremonies, I spoke personally with each of the new citizens. I asked them where they came from, how they came, why they came. Their answers were as different as their countries of origin. But through those answers ran a common theme best summarized by a young Asian man who, when I asked him why he came here, responded in slow and halting English.

'''I came here,' he said, 'because here in America everybody has a chance.' A young man who had been an American for five minutes summed up the meaning of our country in a single sentence.

''Many of us, most of us in this room, derive great benefits from our citizenship. And most of us are citizens by an accident of birth, not by an act of free will.

''With those benefits come responsibility, and foremost among those responsibilities is our obligation to see to it that those who follow us, the generations yet unborn, have opportunity, have hope, have the right to a good, decent life, a good job, a good-paying job, the opportunity to feed, clothe, house and educate one's children in the best way possible.''

Much, too much, has been written in recent years about the politics of values. That 1993 speech expressed straightforwardly the values of an American politician—George Mitchell, Democrat from Maine, former Senate majority leader—who, over the past 22 months, through a combination of heroic patience, consummate prudence and a near-unique ability to publicly submerge his own ego, has crafted the peace plan for Northern Ireland.

Politics is the peaceable resolution of conflict among legitimate competing interests. That is what Mitchell brought to Belfast from Waterville, Maine, after working his way through Bowdoin College and night law school at Georgetown University. A committed partisan, he helped run the two losing national campaigns of his mentor, Sen. Edmund Muskie of Maine.

Neither a plaster saint nor politically invincible, Mitchell himself ran in 1972 for the chairmanship of the Democratic National Committee and lost to Robert Strauss of Texas. In the Watergate election of 1974, when Democrats swept nearly everything, Mitchell still lost the governorship of Maine to an independent. When Muskie left the Senate in 1980 to become secretary of state, Mitchell was chosen to succeed him.

At the 1987 Iran-contra hearings, Mitchell gave a civics lesson to the nation, as he bluntly advised the grandstanding Marine Lt. Col. Oliver North to ''recognize that it is possible for an American to disagree with you on aid to the contras and still love God and still love this country as much as you do.

''Although He is regularly asked to do so, God does not take sides in American politics. And in America, disagreement with the policies of the government is not evidence of lack of patriotism.''

British Prime Minister Tony Blair was indispensable to the peace agreement. So, too, was Irish Prime Minister Bertie Ahern. And the courageous Protestant and Catholic leaders in the North. President Clinton, against the jaded opposition of the foreign policy establishment and over the objections of his own State and Justice Departments, took the bold risks for peace. He has been a leader.

But it was the son of George and Mary Saad Mitchell of Waterville who was to grow up and remind us in Easter week 1998 that politicians can also be peacemakers.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 20, 1998, the federal debt stood at $5,502,138,799,604.60 (Five trillion, five hundred two billion, one hundred thirty-eight million, seven hundred ninety-nine thousand, six hundred four dollars and sixty cents).

One year ago, May 20, 1997, the federal debt stood at $5,346,368,000,000 (Five trillion, three hundred forty-six billion, three hundred sixty-eight million).

Five years ago, May 20, 1993, the federal debt stood at $4,287,296,000,000 (Four trillion, two hundred eighty-seven billion, two hundred ninety-six million).

Ten years ago, May 20, 1988, the federal debt stood at $2,523,014,000,000 (Two trillion, five hundred twenty-three billion, fourteen million).

Fifteen years ago, May 20, 1983, the federal debt stood at $1,288,467,000,000 (One trillion, two hundred eighty-eight billion, four hundred sixty-seven million) which reflects a debt increase of more than $4 trillion—$4,213,671,799,604.60 (Four trillion, two hundred thirteen billion, six hundred seventy-one million, seven hundred ninety-nine thousand, six hundred four dollars and sixty cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 15TH

Mr. HELMS. Mr. President, the American Petroleum Institute's report for the week ending May 15, that the U.S. imported 8,562,000 barrels of oil each day, an increase of 728,000 barrels over the 7,834,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 57.3 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the economic calamity sure to occur in America if and when foreign producers shut off supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,562,000 barrels a day.

RESPONSE TO VACANCY CLAIMS

Mr. HATCH. Mr. President, I rise today to respond to a floor speech my good friend and colleague Senator LEAHY recently delivered. In that address, Senator LEAHY once again brought attention to the so-called vacancy crisis that is facing our Federal Judiciary. Now, I don't blame Senator LEAHY for that. After all, that is his job. He needs to press us a bit to move judges for the Clinton Administration. And indeed, we had some disconnects in the past that prevented us from holding hearings on perhaps as many judges as we would have liked.

That having been said, I am pleased that Senator LEAHY and I have worked out some of the kinks in the process and have worked together to ensure that qualified nominees are confirmed. Similarly, I am happy to report that I have worked over the last few months with White House Counsel Chuck Ruff to ensure that the nomination and confirmation process is a collaborative one between the White House and members of the Senate. I think it's fair to say that after a few bumpy months in which the process suffered due to inadequate consultation between the White House and some Senators, the process is now working rather smoothly. I think the progress is due to the White House's renewed commitment to good faith consultation with Senators of both parties. I also want to compliment Senator LEAHY for his willingness to work with me to get hearings scheduled for nominees. Let me take a moment, however, to correct some of the pernicious myths that persist on the subject of the confirmation process.

Quite simply, contrary to what you may have read in the popular press, there is no general vacancy crisis. So far this year, the Senate has confirmed 26 of President Clinton's nominees. We have confirmed a total of 62 Judges this Congress, in addition to a number of Executive branch nominees. In fact, 266 active Federal Judges, or roughly 35% of all sitting Article III judges, were appointed by this Administration. As of today there are 768 active Federal Judges. What does that number mean? It means that there are currently more sitting federal judges hearing cases than in any previous administration. In fact, since becoming Chairman, I have yet to cast a vote against a single Clinton judicial nominee.

Just as a matter of comparison, at this point in the 101st and 102nd Congress when George Bush was president and Democrats controlled the Senate, there were only 711 and 716 active judges, respectively. Thus, we have 50 more sitting federal judges today than we did in 1992, yet some would have us believe that our federal courts are being overwhelmed by a tidal wave of cases.

Keep in mind that the Clinton administration is on record as having stated that 63 vacancies is virtual full employment of the federal judiciary. The Administrative Office of the U.S. Courts lists the current number of federal judicial vacancies as 76, a far cry from the ''nearly 100'' I have heard some claim. In fact, by the administration's own admission we are 13 judges away from a fully employed federal judiciary. Which begs the question: if we are only 13 judges away from full employment how can we be mired in a vacancy crisis? Only 13 judges out of 843 authorized—I think it is time to put the vacancy crisis argument to rest.

Moreover, let's compare today's vacancy level of 76, with those that existed during the early 1990's when the Democratic and Republican parties' fortunes were reversed. In May of 1991, there were 148 federal judicial vacancies. One year later, in May of 1992, there were 117 federal judicial vacancies. I remember those years. I don't, however, remember one comment about it in the media. I don't recall one television show mentioning it. I don't recall one writer writing about it. Nobody seemed to care. Nobody, that is, except the Chief Justice of the United States, William Rehnquist. Back then, in his year-end report, he called upon the Democratically controlled Senate to confirm more judges, much like he did this past year. Yet no one seemed too concerned about the Chief Justice's comments back then. Now, when we have a Democrat in the White House, all of a sudden it has become a crisis when we have virtually half the vacancies today that we had in 1991. And it becomes a crisis even though the Chief Justice's message is virtually the same now as it was back then.

I also think it important to note that at the end of the Bush Administration, there were 115 vacancies, for which 55 nominees were pending before the Judiciary committee. None of those 55 nominees even received the courtesy of a hearing, however. Compare this to the 65 vacancies remaining at the end of President Clinton's first term. I think there is quite a difference.

Some have mentioned a deliberate effort among Republican members of the Senate to unduly delay the confirmation of Judicial nominees. Nothing could be further from the truth. The judiciary committee has in fact processed nominees at a remarkably fast pace this session. Of the 25 nominees currently pending in the Judiciary committee without a hearing, 10 were received since April. Today, there are only 5 nominees pending on the Senate Floor, and I expect that we will vote on their confirmations before the session ends.

A good deal has been said by critics with regard to the vacancies on the Second and Ninth Circuits. It is true that these two circuits have had unusual difficulties. It should be mentioned, however, that nominations to the Ninth Circuit were held up to decide whether the Circuit should be split or not. Now that a commission is in place to study that issue, we have been able to move a number of Ninth Circuit nominations. In fact, we have confirmed more judges to the Ninth Circuit —three—than to any other circuit. Of the five Ninth Circuit judges still pending in the Senate, two have had hearings and one is pending on the floor. We received two of the other nominees only this session. And there are still vacancies remaining on that circuit—two vacancies of which have not even received a nominees. And one of those vacancies has been open since December of 1996.

This represents a failure not on the part of the Judiciary Committee but on the Clinton Administration. President Clinton's failure to nominate judges expeditiously has in fact slowed the process, as the committee is left with an increasingly smaller base of qualified nominees to hold hearings on. In fact, fewer than half of the current vacancies have nominees pending, with many of those having incomplete paperwork. Rather than succumbing to the petulance of finger pointing, we all would be better served by an administration committed to sending us qualified nominees as expeditiously as possible.

Now, we also acknowledge that there have been problems with confirming

nominees to the Second Circuit, but we have made a strong effort to ameliorate them. Unfortunately an unexpected illnesses have taken their toll on the Second Circuit, but we have done our part in committee. Two of the four nominees to that court are pending on the Senate floor, the other two recently had a hearing, and I expect will be voted out of Committee on Thursday.

Apparently, President Clinton has not shared this sense of urgency with regard to the Second Circuit. In fact, of the five current vacancies on that court, one sat without a nominee for almost two years, another did not receive a nominee for over ten months, and the other waited just over eight months to receive a nominee. Most disturbing of all is the seat vacated by Senior Judge Jon Newman, vacant since July 1, 1997, which is yet to receive a nominee. As I have stated so often before, I'm a pretty good chairman of the Judiciary Committee, but I can't get judges confirmed that have not been nominated.

Now, while the debate about vacancy rates on our federal courts is not unimportant, it remains more important that the Senate perform its advice and consent function thoroughly and responsibly. Federal judges serve for life and perform an important constitutional function, without direct political accountability to the people. Accordingly, the Senate should never move too quickly on nominations before it. Just this past year we saw two examples of what can happen when we try to move nominations along perhaps too quickly. In one instance, a nominee for a federal district court was reported out of the Judiciary Committee before all the details of her record as a state trial judge were known. As it happens, the District Attorney in the nominee's city, who happened to be of her party, and the district attorneys' association in her home state all publicly opposed the nomination, setting forth facts demonstrating a very serious anti-prosecution bias in her judicial record. It's cases like these that underscore the importance of proceeding very deliberately with nominations for these most important life-tenured positions.

Let me make an important point here: federal judges should not be confirmed simply as part of a numbers game to reduce the vacancy rate to a particular level. While I plan to continue to oversee a fair and principled confirmation process, as I always have, I want to emphasize that the primary criteria in this process is not how many vacancies need to be filled, but whether President Clinton's nominees are qualified to serve on the bench, and will not, upon receiving their judicial commission, spend a lifetime career rendering politically motivated, activist decisions. The Senate has an obligation to the American people thoroughly to review the records of the nominees it receives to ensure that they are capable and qualified to serve as federal judges, and as part of that assessment of qualification, to ensure that nominees properly understand the limitations of the judicial role.

Clearly, I believe the Committee has done its part. I hope to continue to work with the Administration and with Senator LEAHY to ensure that qualified individuals will serve on the federal bench.

MEMORIAL DAY 1998

Mr. HATCH. Mr. President, since the Civil War, more than 1.1 million American veterans have lost their lives in service to our Nation. I am humbled by their sacrifice.

I am grateful for the price they have paid for our liberty, the terrible price of individual lives, of men and women who were part of families. As we approach this Memorial Day, I want to pause a moment during this debate to remember their gift.

I am especially proud of Utah's proud tradition of honorable service. The story of the Mormon pioneers who made the grueling trek across the plains and over the Great Divide to escape persecution, in search of religious freedom is well known. Perhaps less well known is the story of the Mormon battalion.

Mr. President, in 1846, while there was an active order in effect in the state of Missouri for the extermination of Mormons, these Americans who had been driven from their homes in Nauvoo, Illinois, were asked to assemble a battalion of 500 men. With their ranks and strength already significantly depleted by disease, hardship, and persecution, most would have understood if the story had ended with an indignant refusal to respond to the request.

Instead, led by Brigham Young, these fathers, brothers, and sons who had seen their rights as Americans trampled, stepped forward to answer their country's call. I might mention that among them was a young man named Orrin Hatch.

This same, passionate willingness to serve one's country still thrives throughout my state. I remember today and honor the 147,000 veterans throughout the state of Utah who have honorably served. But, on Memorial Day, we especially remember those who left in service to our country but who did not return. They have preserved freedom for all generations who followed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 one treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Senate of the United States:

I am gratified that the United States Senate has given its advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic.

The Senate's decisive vote was a milestone on the road to an undivided, democratic and peaceful Europe. The message this vote sends is clear: American support for NATO is firm, our leadership on both sides of the Atlantic is strong, and there is a solid bipartisan foundation for an active U.S. role in transatlantic security.

I thank Majority Leader Lott, Minority Leader Daschle, Senators Helms and Biden, Senator Roth and the members of the NATO Observer Group, and the many others who have devoted so much time and energy to this historic effort. The continuous dialogue and consultation between the Administration and the Congress on this issue was a model of bipartisan partnership. I am committed to ensuring that this partnership continues and deepens as we proceed toward NATO'S 50th anniversary summit next year in Washington.

The resolution of ratification that the Senate has adopted contains provisions addressing a broad range of issues of interest and concern, and I will implement the conditions it contains. As I have indicated following approval of earlier treaties, I will of course do so without prejudice to my authorities as President under the Constitution, including my authorities with respect to the conduct of foreign policy. I note in this connection that conditions in a resolution of advice and consent cannot alter the allocations of authority and responsibility under the Constitution.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 130

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Senate of the United States:

In accordance with the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, adopted by the Senate of the United States on April 30, 1998, I hereby certify to the Senate that:

In connection with Condition (2), (i) the inclusion of Poland, Hungary, and the Czech Republic in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; (ii) the United States is under no commitment to subsidize the national expenses necessary for Poland, Hungary, or the Czech Republic to meet its NATO commitments; and (iii) the inclusion of Poland, Hungary, and the Czech Republic in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area; and

In connection with Condition (3), (A) the NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation with a veto over NATO policy; (B) the NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation any role in the North Atlantic Council or NATO decision-making including (i) any decision NATO makes on an internal matter; or (ii) the manner in which NATO organizes itself, conducts its business, or plans, prepares for, or conducts any mission that affects one or more of its members, such as collective defense, as stated under Article V of the North Atlantic Treaty; and (C) in discussions in the Permanent Joint Council (i) the Permanent Joint Council will not be a forum in which NATO's basic strategy, doctrine, or readiness is negotiated with the Russian Federation, and NATO will not use the Permanent Joint Council as a substitute for formal arms control negotiations such as the adaptation of the Treaty on Conventional Armed Forces in Europe, done at Paris on November 19, 1990; (ii) any discussion with the Russian Federation of NATO doctrine will be for explanatory, not decision-making purposes; (iii) any explanation described in the preceding clause will not extend to a level of detail that could in any way compromise the effectiveness of NATO's military forces, and any such explanation will be offered only after NATO has first set its policies on issues affecting internal matters; (iv) NATO will not discuss any agenda item with the Russian Federation prior to agreeing to a NATO position within the North Atlantic Council on that agenda item; and (v) the Permanent Joint Council will not be used to make any decision on NATO doctrine, strategy, or readiness.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 131

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, adopted by the Senate of the United States on April 30, 1998, I hereby certify to the Congress that, in connection with Condition (5), each of the governments of Poland, Hungary, and the Czech Republic are fully cooperating with United States efforts to obtain the fullest possible accounting of captured and missing U.S. personnel from past military conflicts or Cold War incidents, to include (A) facilitating full access to relevant archival material, and (B) identifying individuals who may possess knowledge relative to captured and missing U.S. personnel, and encouraging such individuals to speak with United States Government officials.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 132

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to present to you the 32nd annual report of the National Endowment for the Humanities (NEH), the Federal agency charged with advancing scholarship and knowledge in the humanities. The NEH supports an impressive range of humanities projects advancing American scholarship and reaching millions of Americans each year.

The public has been enriched by many innovative NEH projects. These included a traveling exhibit, companion book, and public programming examining the history and legacy of the California Gold Rush on the occasion of its Sesquicentennial. Other initiatives promoted humanities radio programming and major funding for the critically acclaimed PBS series, ''Liberty! The American Revolution.''

The NEH is also utilizing computer technologies in new and exciting ways. Answering the call for quality humanities content on the Internet, NEH partnered with MCI to provide EDSITEment, a website that offers scholars, teachers, students, and parents a link to the Internet's most promising humanities sites. The NEH's ''Teaching with Technology'' grants have made possible such innovations as a CD–ROM on art and life in Africa and a digital archive of community life during the Civil War. In its special report to the Congress, ''NEH and the Digital Age,'' the agency examined its past, present, and future use of technology as a tool to further the humanities and make them more accessible to the American public.

This past year saw a change in leadership at the Endowment. Dr. Sheldon Hackney completed his term as Chairman and I appointed Dr. William R. Ferris to succeed him. Dr. Ferris will continue the NEH's tradition of quality research and public programming.

The important projects funded by the NEH provide for us the knowledge and wisdom imparted by history, philosophy, literature, and other humanities disciplines, and cannot be underestimated as we meet the challenges of the new millennium.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:07 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2472. An act to extend certain programs under the Energy Policy and Conservation Act.

H.R. 3301. An act to amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bill, previously received from the House of Representative for the concurrence of the State, was read the first and second times by unanimous consent and referred as indicated:

H.R. 2807. An act to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products labeled as containing substances derived from rhinoceros or tiger; to the Committee on Environment and Public Works.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, which were referred as indicated:

EC–4954. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes'' (Docket 97–CE–05–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4955. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter Deutschland) Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters'' (Docket 97–SW–45) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4956. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes'' (Docket 97–NM–199–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4957. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes'' (Docket 98–NM–131–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4958. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–215–1A10 and CL–215–6B11 Series Airplanes'' (Docket 98–NM–05–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4959. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce, plc RB211 Trent 768 and 772 Series Turbofan Engines'' (Docket 98–ANE–09–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4960. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–400 Series Airplanes'' (Docket 97–NM–138–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4961. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–301 Series Airplanes'' (Docket 97–NM–300–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4962. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company Model GE90–76B Turbofan Engines'' (Docket 97–ANE–28–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4963. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Short Brothers Model SD3–30 and SD3–60 Series Airplanes Equipped with Fire Fighting Enterprises (U.K.) Ltd. Fire Extinguishers'' (Docket 96–NM–175–AD) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4964. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace, Twin Falls, ID'' (Docket 97–ANM–24) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4965. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Osceola, AR'' (Docket 92–ASW–35) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4966. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; Mountain View, CA'' (Docket 98–AWP–9) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4967. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Borrego Springs, CA'' (Docket 96–AWP–4) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4968. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Commercial Passenger-Carrying Operations in Single-Engine Aircraft under Instrument Flight Rules'' (Docket 28743) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4969. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: M/V KURE, Entrance to Humbolt Bay, CA (COTP San Francisco Bay; 98–007)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4970. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Southern Solano County and West Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98–006)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4971. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98–004)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4972. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98–003)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4973. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Sacramento-San Joaquin Delta, CA (COTP San Francisco Bay; 98–001)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4974. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Tampa Bay, Tampa, Florida'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4975. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Sunshine Skyway Bridge, Tampa Bay, Tampa, Florida'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4976. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: San Juan, Puerto Rico (COTP San Juan 98–011)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4977. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: San Juan, Puerto Rico (COTP San Juan 98–008)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4978. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: San Francisco Bay, San Francisco, CA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4979. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Moving Safety Zone: San Diego Bay and Adjacent Waters, San Diego, CA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4980. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Mission Bay, San Diego, CA; Oceanside Harbor, Oceanside, CA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4981. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: San Diego Harbor, San Diego, CA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4982. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulation: Training exercise: USNS BELLATRIX'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4983. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulation: M/V KAPITAN SOKOLOV, Neches River Closure'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4984. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations; Mile 94.0 to Mile 95.0, Lower Mississippi River, Above Head of Passes (COTP New Orleans, LA 98–002)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4985. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations; Mile 94.0 to Mile 96.0, Lower Mississippi River, Above Head of Passes (COTP New Orleans, LA 98–001)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4986. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Ohio River, Maysville, KY'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4987. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations; Galveston Bay Entrance 'GB' Buoy, Galveston Ship Channel, Galveston, TX'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4988. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations; Galveston Ship Channel, Inner Bar Channel, Outer Bar Channel, Galveston Bay Entrance Lighted 'GB' Buoy, TX'' (RIN2115–AA98) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4989. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Houston Ship Channel, Houston, TX (COTP Houston-Galveston 98–004)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4990. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Houston Ship Channel, Houston, TX (COTP Houston-Galveston 98–003)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4991. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Upper Trinity Bay, Houston, TX'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4992. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Houston Ship Channel, Houston, TX (COTP Houston-Galveston 98–001)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4993. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Matagorda Bay, Intracoastal Waterway'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4994. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security/Safety Zone Regulations; Hanford Site Emergency Incident on the Columbia River, Richland, WA'' received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4995. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Lake Erie; Toussaint River Channel, Ohio'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4996. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Calumet River'' received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4997. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; McDonalds All American Basketball Classic Mayor's Reception Fireworks Display, Elizabeth River, Norfolk, VA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4998. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Port Norfolk Reach, Norfolk, VA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4999. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Hampton Roads, Willoughby Bay, VA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5000. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Outer Banks, Duck, NC and Vicinity'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5001. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Albemarle Sound, Harvey Point, and Vicinity'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5002. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; James River, Newport News, VA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5003. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Vice Presidential Visit, Boston, MA'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5004. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Fore River Shipping Channel Closure, Portland, ME (CGD1–98–011)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5005. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Vessel Launching, Kennebec River, Bath, Maine'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5006. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; El Nuevo Dia Offshore Cup, Bahia De Mayaguez, Puerto Rico'' (RIN2115–AE46) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5007. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones, Security Zones, and Special Local Regulations'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5008. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Zone: Presidential Visit, East River, New York (CGD01–98–001)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5009. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security Zone: Presidential Visit, East River, New York (CGD01–98–003)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5010. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Explosive Load, Bath Iron Works, Bath, ME'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5011. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Fore River Shipping Channel Closure, Portland, ME (CGD1–98–010)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5012. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Fore River Shipping Channel Closure, Portland, ME (CGD1–98–004)'' (RIN2115–AA97) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5013. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Determination of Functional Equivalency on Harmonization'' (RIN2127–AG62) received on May 11, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5014. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the relocation of digital electronic message service from the 18 GHz Band to the 24 GHz band and to allocate the 24GHz band for fixed service (Docket 97–99) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5015. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding the redesignation of frequency bands and the establishment of rules and policies for local multipoint distribution service and for fixed satellite services (Docket 92–297) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5016. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships'' (Docket 95–55) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5017. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding radiofrequency radiation, review of regulations, and cellular telecommunications (Docket 97–192, 93–62 and RM–8577) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5018. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law,

the report of a rule regarding regulations on Atlantic coast weakfish fishery (RIN0648–AJ15) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5019. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding management of West Coast salmon fisheries (RIN0648–AK25) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5020. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the retention of undersized halibut in Pacific fisheries (RIN0648–AK58) received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5021. A communication from the Acting Director of the Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding shallow-water species fishery off Alaska (Docket 971208297–8054–02) received on May 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5022. A communication from the Assistant Administrator for Satellite and Information Services, National Environmental Satellite, Data, and Information Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Policies and Procedures Regarding Use of the NOAA Space-Based Data Collection Systems'' (RIN0648–AK04) received on May 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5023. A communication from the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries; Fishery Closure'' received on May 13, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5024. A communication from the Chairman of the Federal Communications Commission, transmitting, a report concerning the implementation of the federal universal service support mechanisms; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

H.R. 1151. A bill to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions (Rept. No. 105–193).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 824. A bill to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the ''Howard T. Markey National Courts Building.''

S. 1298. A bill to designate a Federal building located in Florence, Alabama, as the ''Justice John McKinley Federal Building.''

S. 1355. A bill to designate the United States courthouse located in New Haven, Connecticut, as the ''Richard C. Lee United States Courthouse.''

S. 1800. A bill to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse.''

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1892. A bill to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1898. A bill to designate the Federal building located at 1301 Clay Street in Oakland, California, as the ''Ronald V. Dellums Federal Building.''

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 2022. A bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 2032. A bill to designate the Federal building in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building.''

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 2073. A bill to authorize appropriations for the National Center for Missing and Exploited Children.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

William A. Fletcher, of California, to be United States Circuit Judge for the Ninth Circuit.

Ronnie L. White, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Rosemary S. Pooler, of New York, to be United States Circuit Judge for the Second Circuit.

Robert D. Sack, of New York, to be United States Circuit Judge for the Second Circuit.

Richard W. Roberts, of the District of Columbia, to be United States District Judge for the District of Columbia.

Q. Todd Dickinson, of Pennsylvania, to be Deputy Commissioner of Patents and Trademarks.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. THURMOND, from the Committee on Armed Services:

The following named officer for appointment in the United States Air Force 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. Robert F. Raggio, 7255

The following named officer for appointment in the United States Air Force 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. Donald L. Peterson, 2830

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Daniel James, III, 8248

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Lee P. Rodgers, 4461

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Archie J. Berberian, II, 4968

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Roger C. Schultz, 5293

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Daniel C. Balough, 0228
Brig. Gen. Roger L. Brautigan, 1521
Brig. Gen. Thomas A. Wessels, 5197

To be brigadier general

Col. Bruce A. Adams, 4063
Col. Michael B. Barrett, 8071
Col. Lowell C. Detamore, Jr., 9811
Col. Kenneth D. Herbst, 3103
Col. Kenneth L. Penttila, 0067

The following named officer for appointment in the United States Marine Corps 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. Frederick McCorkle, 7324

The following named officer for appointment in the United States Marine Corps 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. Jack W. Klimp, 5723

The following named officer for appointment as Assistant Commandant of the Marine Corps and for appointment to the grade indicated under title 10, U.S.C., section 5044:

To be general

Lt. Gen. Terrence R. Dake, 6646

The following named officers for appointment in the Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Martin E. Janczak, 9028
Rear Adm. (lh) Pierce J. Johnson, 1625
Rear Adm. (lh) Lary L. Poe, 6491
Rear Adm. (lh) Michael R. Scott, 2697

The following named officer for appointment in the Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral

Rear Adm. (lh) Robert F. Birtcil, 3384

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Michael W. Shelton, 2431

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Charles S. Abbot, 8270

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Jeffrey A. Cook, 2672

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

George P. Nanos, Jr., 1992

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 11 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the RECORDs of April 21 and 29, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDs of April 21 and April 29, 1998, at the end of the Senate proceedings.)

In the Air Force nominations beginning Phillip M. Armstrong, and ending *Rex A. Williams, which nominations were received by the Senate and appeared in the RECORD of April 21, 1998.

In the Army nomination of Gary W. Krahn, which was received by the Senate and appeared in the RECORD of April 21, 1998.

In the Marine Corps nominations beginning Richard D. Coulter, and ending Karim Shihata, which nominations were received by the Senate and appeared in the RECORD of April 21, 1998.

In the Navy nominations beginning Michale D. Cobb, and ending Raymond B. Roll, which nominations were received by the Senate and appeared in the RECORD of April 21, 1998.

In the Navy nomination of Daniel D. Thompson, which was received by the Senate and appeared in the RECORD of April 21, 1998.

In the Army nominations beginning Eugene N. Acosta, and ending Curtis L. Yeager, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nomination of Gary F. Baumann, which was received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning Michael L. Andrews, and ending Robert C. Wittenberg, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning James N. Adams, and ending Thomas J. Zohlen, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning Louis P. Abraham, and ending Mark G. Zimmerman, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

In the Marine Corps nominations beginning Ruben Bernal, and ending James Werdann, which nominations were received by the Senate and appeared in the RECORD of April 29, 1998.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2105. A bill to require the Secretary of the Army to conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating certain bank erosion and sedimentation problems; to the Committee on Environment and Public Works.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 2106. A bill to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM (for himself, Mr. WYDEN, Mr. MCCAIN, and Mr. REED):

S. 2107. A bill to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (by request):

S. 2108. A bill to amend chapter 19, of title 38, United States Code, to provide that Service-members' Group Life Insurance and Veterans' Group Life Insurance under such chapter may, upon application, be paid to an insured person who is terminally ill; to the Committee on Veterans Affairs.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2109. A bill to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself, Mr. SPECTER, Mrs. BOXER, Ms. SNOWE, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. WELLSTONE, Mr. DODD, Mr. KENNEDY, and Mr. DURBIN):

S. 2110. A bill to authorize the Federal programs to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Oregon:

S. 2111. A bill to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under the memorandum of understanding, 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. 233. A resolution to authorize the testimony and document production and representation of Senate employees in People v. James Eugene Arenas; considered and agreed to.

By Mr. STEVENS (for himself, Mr. LOTT, Mr. DASCHLE, Mr. BYRD, and Mr. WARNER):

S. Res. 234. A resolution to honor Stuart Balderson; considered and agreed to.

By Mr. GREGG (for Mr. LOTT):

S. Con. Res. 98. A concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2105. A bill to require the Secretary of the Army to conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating certain bank erosion and sedimentation problems; to the Committee on Environment and Public Works.

NIOBRARA RIVER AND MISSOURI RIVER LEGISLATION

Mr. DASCHLE. Mr. President, earlier this year I introduced S. 1672, the Missouri River Erosion Control Act of 1998. It will create an important new program to provide homeowners on the Missouri River with the assistance they need to protect their homes from shoreline erosion.

Today, my colleague Senator JOHNSON and I are introducing a second bill that I hope will help to preserve the character of the Missouri River for generations to come. Up and down the Missouri River, South Dakotans can tell you that the river is slowly changing as a result of the dams built under the authority of the Pick-Sloan Act. While the dams undoubtedly have made positive contributions to South Dakota by controlling floodwaters and making affordable electricity available to promote rural development, they also ended the Big Muddy's ability to carry a full sediment load for long distances. Sediments are now being deposited into shallow areas of the river, causing the water table to rise, flooding shoreline lands and worsening erosion. In addition, the sediment build-up has made navigation nearly impossible in some areas.

These problems have grown particularly severe near the city of Springfield, where a delta is forming downstream from the confluence of the Missouri and Niobrara Rivers. In order to better understand the causes of the sediment build-up and to develop solutions to address it, I am introducing legislation today to direct the Corps of Engineers to conduct a study of the lower Missouri and Niobrara River watershed. It is my hope that this study will provide the blueprint necessary to alleviate the sediment build-up, reduce future sedimentation, and preserve the character of the rivers for years to come. I hope my colleagues will give this legislation their full support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2105

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

SECTION 1. NIOBRARA RIVER AND MISSOURI RIVER SEDIMENTATION STUDY.

The Secretary of the Army shall conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems in the lower Niobrara River and the Missouri River below Fort Randall Dam.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 2106. A bill to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

THE ARCHES NATIONAL PARK EXPANSION ACT OF 1998

Mr. BENNETT. Mr. President, I am pleased to introduce legislation to expand the boundaries of Arches National Park. I appreciate my colleague Senator HATCH for joining me in this effort. The House version of this bill, H.R. 2283 sponsored by Mr. CANNON, was passed late last year.

Most Americans recognize the familiar landscape of Arches National Park. It encompasses some of the most unique lands in the Southwest. Delicate sandstone arches, stunning vistas, contrasting colors, sweeping desert valleys, maze-like rock formations, and rugged gorges characterize the panorama in the park. In 1929, when the park was created, knowledge of ecosystem management was almost nonexistent. Park designation preserved these unique geological treasures but also relied on fairly rigid park boundaries which has resulted in some fragmentation of ecological areas within the park. This bill authorizes a 3,140 acre expansion to include the beautiful and unique Lost Spring Canyon parcel contiguous with the eastern boundary of the Arches. This addition will enhance the ecological protection of Arches.

The Arches National Park Expansion includes portions of the following drainages: Salt Wash, Lost Spring Canyon, Fish Seep Draw, Clover Canyon, Cordova Canyon, Mine Draw, and Cottonwood Wash. These areas are currently under the jurisdiction of either the Bureau of Land Management or the State of Utah. Once the expansion is complete, the Park Service will continue to protect the wilderness values of these lands. No road or campground construction will occur in the new addition. Lost Spring Canyon will continue primarily to be used for backcountry hiking. It is not in danger of being overrun by thousands of park visitors simply by the nature of the rugged terrain and the distances involved. But it makes good management sense to bring these areas under park management.

Public lands debates are far too contentious in the West, particularly in Utah. While it is unfortunate that we have not been able to reach consensus on issues like wilderness, I am pleased that the expansion of Arches National Park is an issue which a diverse group of interests do agree. Local officials, the Grand Canyon Trust, the National Parks and Conservation Association, environmental groups, the State of Utah, the Utah Congressional delegation, and the Administration all support this bill.

This legislation is good for Arches National Park and is a great example of how it is possible to reach consensus among public lands interests. The expansion will enhance the visitor experience of Arches by expanding backcountry opportunities. It makes good management sense for both BLM and the Park Service. I hope my colleagues will join me in moving this legislation quickly.

Mr. HATCH. Mr. President, I am pleased to rise today along with my good friend and colleague, Senator BENNETT, as a cosponsor of the Arches National Park Expansion Act of 1998. This is an inexpensive, practical, common-sense proposal that has gathered widespread support.

Arches National Park is known world-wide for its spectacular canyons and rock formations. When Arches National Park was created 25 years ago, the park boundaries were set with little regard to naturally occurring borders. Specifically, Lost Springs Canyon, located in the northeast corner of the park, was divided in half by the park boundaries.

Mr. President, this worthwhile legislation would expand the boundaries of the park by approximately 3,140 acres, incorporating the Lost Spring Canyon. The new, expanded boundary would better follow the natural borders dictated by the position of the canyon rim rather than the section lines and manmade features. Adding Lost Spring Canyon to the 73,400 acres already included in Arches National Park would bring a variety of new arches, balanced rocks, spires, and other geologic features under park protection and management. The addition of Lost Spring Canyon would also include the option of a ''back-country'' experience in Arches National Park.

The widespread support this bill enjoys is the result of careful efforts to balance competing interests. The Utah School Trust, the Grand Canyon Trust, the National Parks and Conservation Association, and the National Park Services have voiced support for the proposed bill. Local officials, interest groups, and a majority of the residents of Grand County have been consulted for input and are also supportive of the boundary change.

Again, I am pleased to cosponsor the Arches National Park Expansion Act of 1998. I urge my colleagues to support this important legislation.

By Mr. ABRAHAM (for himself, Mr. WYDEN, Mr. MCCAIN, and Mr. REED):

S. 2107. A bill to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ELECTRONIC COMMERCE ENHANCEMENT ACT

•Mr. ABRAHAM. Mr. President, today with Senators WYDEN, MCCAIN, and REED I introduce the Electronic Commerce Enhancement Act. This legislation will bring the federal government into the electronic age, in the process saving American individuals and companies millions of dollars and hundreds of hours currently wasted on government paperwork.

Mr. President, the Electronic Commerce Enhancement Act would require federal agencies to make versions of their forms available online and allow people to submit these forms with digital signatures instead of handwritten ones. It also sets up a process by which commercially developed digital signatures can be used in submitting forms to the government and permits the digital storage of federal documents.

Each and every year, Mr. President, Americans spend in excess of $600 billion simply filling out, documenting and handling government paperwork. This huge loss of time and money constitutes a significant drain on our economy and we must bring it under control. That is why we need this legislation.

By providing individuals and companies with the option of electronic filing and storage, this bill will reduce the paperwork burden imposed by government on the American people and the American economy. It will allow people to move from printed forms they must fill out using typewriters or handwriting to digitally-based forms that can be filled out using a word processor. The savings in time, storage and postage will be enormous. One company, computer maker Hewlett-Packard, estimates that the section of this bill permitting companies to download copies of regulatory forms to be filed and stored digitally rather than physically will, by itself, save that company $1–2 billion per year.

Other companies will experience similar savings, and the results for the overall economy will be enormous. Mr. President, the results for America's small businesses, which bear a disproportionate portion of the paperwork burden, will be enormous and may in some cases spell the difference between business success and failure.

Mr. President, the easier and more convenient we make it for American businesses to comply with paperwork

and reporting requirements, the better job they will do of meeting these requirements, and the better job they will do of creating jobs and wealth for our country. This legislation will help businesses and small businesses in particular as they struggle to satisfy Washington bureaucrats while retaining sufficient resources to satisfy their customers and meet their payrolls.

The most important benefit of this legislation, however, lies in the area of electronic innovation. Currently, digital encryption is in a relatively undeveloped state. One reason for that is the lack of opportunity for many individuals and companies to make use of the technology. Another is the lack of a set industry standard. By allowing use of this technology in the filling out of government paperwork, and by establishing a standard for digital encryption, the federal government can open the gates to quick, efficient development of this technology, as well as its more application throughout the economy. The benefits to American businesses as they struggle to establish paper-free workplaces that will lower administrative costs, will be significant, and will further spur our national economy.

Efficiency in the federal government itself will also be enhanced by this legislation. By forcing government bureaucracies to enter the digital information age we will force them to streamline their procedures and enhance their ability to maintain accurate, accessible records. This should result in significant cost savings for the federal government as well as increased efficiency and enhanced customer service.

The information age is no longer new, Mr. President. We are in the midst of a revolution in the way people do business and maintain records. This legislation will force Washington to catch up with these developments, and release our businesses from the drag of an obsolete bureaucracy as they pursue further innovations. The result will be a nation and a people that is more prosperous, more free and more able to spend time on more rewarding pursuits.

I urge my colleagues to support this important legislation.●

By Mr. SPECTER (by request):

S. 2108. A bill to amend chapter 19, of title 38, United States Code, to provide that Service-members' Group Life Insurance and Veterans' Group Life Insurance under such chapter may, upon application, be paid to an insured person who is terminally ill; to the Committee on Veterans' Affairs.

SERVICEMEMBERS AND VETERANS' GROUP LIFE INSURANCE ACCELERATED DEATH BENEFITS ACT

●Mr. SPECTER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2108, the proposed ''Servicemembers' and Veterans' Group Life Insurance Accelerated Death Benefits Act.'' The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated February 10, 1998.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2108

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 ''Servicemembers' and Veterans' Group Life Insurance Accelerated Death Benefits Act''.

SEC. 2. OPTION TO RECEIVE ACCELERATED DEATH BENEFITS.

(a) IN GENERAL.—Chapter 19 of title 38, United States Code, is amended by adding at the end of subchapter III the following new section:

''§ 1980. Option to receive accelerated death benefits

''(a) For the purpose of this section, a person shall be considered to be 'terminally ill' if such person has a medical prognosis that such person's life expectancy is less than a period prescribed by regulation by the Secretary of Veterans Affairs. The maximum time period prescribed in regulation shall not exceed 12 months.

''(b) The Department of Veterans Affairs shall prescribe regulations under which any terminally ill person insured under Servicemenbers' Group Life Insurance or Veterans' Group Life Insurance may elect to receive in a lump-sum payment a portion of the face value of the insurance as an accelerated death benefit reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefit paid, as determined in regulations issued by the Secretary. The Secretary may prescribe by regulation the maximum amount of the accelerated death benefit available under this section that the Secretary finds to be administratively practicable and actuarially sound, but in no instance shall the benefit exceed 50 percent of the face value of the person's insurance in force on the date the election is approved. The insured may elect to receive an amount that is less than the maximum prescribed by the Secretary. The Secretary shall prescribe in regulation increments in which the partial benefit can be elected.

''(c) The portion of the face amount of the insurance which was not paid in a lump sum as accelerated death benefits shall remain payable in accordance with the provisions of this chapter.

''(d) Deductions under section 1969 and premiums under section 1977(c) shall be reduced, in a manner consistent with the percentage reduction in the face amount of the insurance as a result of payment of accelerated death benefits, effective with respect to any amounts which would otherwise become due on or after the date of payment under this subsection.

''(e) The regulations shall include provisions regarding the form and manner in which an application under this subsection shall be made and the procedures in accordance with which any such application shall be considered.

''(f) An election to receive benefits under this section shall be irrevocable, and not more than one such election may be made by any individual, even if the individual elects to receive less than the maximum amount of accelerated benefits prescribed by regulation.

''(g) If a person insured under Servicemembers' Group Life Insurance elects to receive accelerated death benefits under this section, and the insured's Servicemembers' Group Life Insurance is thereafter converted to Veterans' Group Life Insurance as provided in section 1968(b) of this title, the amount of accelerated benefits paid under this section shall reduce the amount of Veterans' Group Life Insurance available to the insured under section 1977(a) of this title.''.

(b) Section 1970(g) of title 38, United States Code, is amended by—

(1) striking ''of benefits'' in the first sentence and inserting ''Any'' at the beginning of that sentence;

(2) adding ''an insured or'' following ''or on account of,''; and

(3) adding the following at the end of the subsection: ''Neither the amount of any payments made under this subchapter nor the name and address of the recipient of such payments shall be reported under subpart B of chapter 61 of the Internal Revenue Code of 1986.''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19, title 38, United States Code, is amended by adding the following new item after the item relating to section 1979:

''1980. Option to receive accelerated death benefits.''.

(d) EFFECTIVE DATE.—The amendments made by section 2 shall take effect 90 days after the date of the enactment of this Act.

(e) All regulations necessary to implement these amendments shall be promulgated through notice and comment rulemaking in accordance with 5 U.S.C. §553.

DEPARTMENT OF VETERANS AFFAIRS,
Washington, DC, February 10, 1998.

Hon. ALBERT GORE, Jr.,
President of the U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the ''Servicemembers' and Veterans Group Life Insurance Accelerated Death Benefits Act.'' I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

This draft bill would amend title 38, United States Code, by adding a new section which would provide that group life insurance benefits may, upon application, be paid to a terminally ill person insured under Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI). Traditionally, individuals have purchased life insurance in order to protect their dependents against financial loss due to their death. The proceeds have served to replace the lost income of the insureds and to cover their final expense. However, commercial life insurance companies have more recently included accelerated-benefit provisions in policies, which permit policyholders to receive payment of all or part of their life insurance policy's face amount prior to their death to provide for their needs during their

final days. This draft bill would allow terminally ill SGLI and VGLI insureds to have access to a portion of the death benefits of the insurance proceeds provided under SGLI or VGLI coverage before they die in order to meet the financial burdens of medical and living expenses, but also would preserve a portion of the benefits for their dependents.

Section 2 of this draft bill would provide that benefits would be payable to insured persons with a medical prognosis of a life expectancy of less than a period prescribed by the Secretary of Veterans Affairs, but the maximum period prescribed by the Secretary would not exceed 12 months. The Secretary would be authorized to promulgate regulations prescribing the maximum amount of the accelerated death benefit available under section 2, but in no event would the maximum amount exceed 50 percent of the face value of the person's insurance in force on the date the election is approved. The insured would be able to choose to receive less than the maximum amount prescribed by the Secretary, as prescribed by regulation. Payment of benefits under this bill would be reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefits paid. The benefits would be exempt from taxation, *see also* 26 U.S.C.A. §101(g)(1)(A), and creditors' claims, and would not be subject to attachment, levy, or seizure before or after receipt by the insured. In return for this election, the insured would sever all rights that any beneficiary might have had in the portion of the proceeds which are paid as accelerated death benefits. The accelerated death benefits election would be irrevocable and monthly deductions for SGLI and premiums for VGLI would be reduced in accordance with the percentage reduction in the face amount of the insured's policy as a result of the election. If a SGLI insured elects to receive accelerated death benefits under section 2 of this proposed legislation and the SGLI policy is then converted to VGLI as provided in 38 U.S.C. §1968(b), the amount of the accelerated benefits paid would be subtracted from the amount of the VGLI available under 38 U.S.C. §1977(a). The Department of Veterans Affairs would be required to issue regulations regarding the form and manner in which an application for accelerated death benefits must be made.

This legislative proposal would reduce receipts annually by a negligible amount; therefore, it is subject to the pay-as-you-go (paygo) requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). This proposal should be considered in conjunction with other proposals in the President's FY 1999 Budget that together meet the paygo requirement.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

TOGO D. WEST, Jr.,
Acting Secretary.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2109. A bill to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

Mr. MURKOWSKI. Mr. President, I rise today for the purpose of introducing legislation, that when enacted, will provide for a cleaner electrical system for Glacier National Park and Preserve in Alaska.

Vice President Al Gore in his opening remarks to the President's Council on Sustainable Development on January 13, 1994 said ''Our objective is results that are cleaner for the environment and cheaper for the economy.'' My objective for Glacier Bay National Park and the nearby Gustavus community mirrors that of the Vice President—to produce electricity that will be cleaner for the environment and cheaper for the economy.

Glacier Bay National Park currently generates its own electrical power using diesel generators. The electrical generation equipment now in place is expensive to maintain and is unreliable. It is my understanding that over the years there have been at least two oil spills into the waters of Glacier Bay, the tank farm is leaking, and the current electrical system is in need of major repair. In short, the diesel system at Glacier Bay is unacceptable in environmental terms

Before we spend tax payers dollars to add band-aids to this antiquated system, we ought to consider an environmentally sound and cheaper option for the production of electrical power.

Fortunately, there is a viable option. Enactment of this legislation would allow the placement and installation of a small water powered electrical system in the Fall Creek area on the southeast corner of Glacier Bay National Park and Preserve.

Before park advocates take out their swords and start drawing lines in the sand, I want to make it very clear that I am not suggesting that we allow for the construction of a Hoover Dam in a National Park. I am suggesting that a ''run of stream'' small diversion weir be placed along Fall Creek within the boundaries of the Park.

Since the Fall Creek area of this proposed hydro power system is in a Wilderness area designated by Congress, any redrawing of boundaries of Glacier Bay National Park or other procedure to permit the system requires Congressional approval. As envisioned, the site required will amount to approximately 78 acres. If only the ''footprint'' is considered, as little as 5 acres would be utilized.

I believe there are considerable environmental benefits and economic advantages to be gained by eliminating dependence upon diesel fossil fuel and converting to a small water powered electrical system to provide power to the community of Gustavus and the National Park Service in Glacier Bay. In addition to providing clean, cheaper, stable priced, hydro electricity, substantial savings will occur to the State of Alaska, the National Park Service and to consumers. Significant economic savings from appropriations and increasing operational expenses for the existing systems, along with the environmental enhancements will have continuing long term benefits that more than compensate for a loss of some 5 acres for the Fall Creek System. These multiple benefits should be sufficient merit alone to justify a restructuring of Park boundaries to accommodate the new electrical generating system.

I realize that however meritorious the proposal may be, taking Wilderness out of a system or lands out of a park will be unacceptable to some. Under the provisions of this legislation lands removed from the boundaries of the Park will be replaced with State lands in another park. In other words, there will be no net loss of Wilderness.

We need to clean and protect the environment at Glacier Bay and Gustavus, this legislation is the beginning. The completed project will serve as a conservation model to other communities—an example of significant environmental advantages coupled with substantial economic savings to the public and government which could be realized elsewhere, particularly in the rural communities of Alaska.

I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was order to be printed in the RECORD, as follows:

S. 2109

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 ''Glacier Bay National Park Boundary Adjustment Act of 1998.''

SEC. 2. LAND EXCHANGE AND WILDERNESS DESIGNATION.

(a) IN GENERAL.—(1) Subject to conditions set forth in subsection (c), if the State of Alaska, in a manner consistent with this Act, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands identified in paragraph (3), selected from the area described in Section 3(b)(1), the Secretary of the Interior (in this Act referred to as the ''Secretary'') shall complete such exchange no later than 6 months after the issuance of a license to Gustavus Electric Company by the Federal Energy Regulatory Commission (FERC), in accordance with this Act. This land exchange shall be subject to the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of state lands required by state law.

(2) The lands to be conveyed to the United States by the State of Alaska shall be determined by mutual agreement of the Secretary and the State of Alaska. Lands which will be considered for conveyance to the United States pursuant to the process required by State law are: (1) lands owned by the State of Alaska in the Long Lake area within Wrangell-St. Elias National Park and Preserve; or (2) other lands owned by the State of Alaska.

(3) If the Secretary and the State of Alaska have not agreed on which lands the State of Alaska will convey by a date not later than six months after a license is issued pursuant to this Act, the State of Alaska shall convey (subject to the approval of the appropriate official of the State of Alaska), and the United States shall accept, within one year after a license is issued, title to land having a sufficiently equal value to satisfy state and federal law, subject to clear title and valid existing rights, and absence of environmental contamination, and as provided by

the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of state lands required by state law. Such land shall be conveyed to the United States from among the following State lands in the priority listed:

COPPER RIVER MERIDIAN

1. T.6., R. 11 E., partially surveyed,

Sec. 11, lots 1 and 2, NE¼, S½NW¼, SW¼, and N½SE¼;

Sec. 12, NW¼;

Sec. 14, lots 1 and 2, NW¼NW¼,

Containing 838.66 acres, as shown on the plat of survey accepted June 9, 1922.

2. T. 5 S., R. 11 E., partially surveyed,

T. 6 S., R. 11 E., partially surveyed,

Sec. 2, NW¼ NE¼ and NW¼,

Containing 200.00 acres, as shown on the plat of survey accepted June 9, 1922,

3. T. 6 S., R. 12 E., partially surveyed,

Sec. 6, lots 1 through 10, E½SW¼, and SE¼

Containing approximately 529.94 acres, as shown on the plat of survey accepted June 9, 1922.

(4) The lands to be conveyed to the State of Alaska by the United States under paragraph (1) are lands to be designated by the Secretary and the State of Alaska, consistent with sound land management principles, based on those lands determined by the FERC with the concurrence of the Secretary and the State of Alaska, in accordance with section 3(b), to be the minimum amount of land necessary for the construction and operation of a hydroelectric project.

(5) The time periods set forth for the completion of the land exchanged described in this Act may be extended as necessary by the Secretary should the processes of state law or federal law delay completion of an exchange.

(6) For purposes of this Act, ''land'' means lands, waters and interests therein.

(b) WILDERNESS.—(1) To ensure that this transaction maintains, within the National Wilderness Preservation System, approximately the same amount of area of designated wilderness as currently exists, the following lands in Alaska shall be designated as wilderness in the priority listed, upon consummation of the land exchange authorized by this Act and shall be administered according to the laws governing national wilderness areas in Alaska.

(A) An unnamed island in Glacier Bay National Park lying southeasterly of Blue Mouse Cove in sections 5, 6, 7, and 8, T. 36 S., R 54 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (D–2), Alaska, containing approximately 789 acres.

(B) Cenotaph Island of Glacier Bay National Park lying within Lituya Bay in sections 23, 24, 25, and 26, T. 37 S., R. 47 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (C–5), Alaska, containing approximately 280 acres.

(C) An area of Glacier Bay National Park lying in T. 31. S., R. 43 E and T.32 S., R, 43 E., CRM, that is not currently designated wilderness, containing approximately 2270 acres.

(2) The specific boundaries and acreage of these wilderness designations may be reasonably adjusted by the Secretary, consistent with sound land management principles, to approximately equal, in sum, the total wilderness acreage deleted from Glacier Bay National Park and Preserve pursuant to the land exchange authorized by this act.

(c) CONDITIONS.—Any exchange of lands under this Act may occur only if—

(1) following the submission of an acceptable license application, the FERC has conducted economic and environmental analyzes under the Federal Power Act (16 U.S.C. 791–828) (notwithstanding provisions of that Act and the Federal regulations that otherwise exempt this project from economic analyzes), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370), and the Fish and Wildlife Coordination Act (16 U.S.C., 661–666), that conclude, with the concurrence of the Secretary of the Interior with respect to (A) and (B) below, that the construction and operation of a hydroelectric power project on the lands described in section 3(b)—

(A) will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this section);

(B) will comply with the requirements of the National Historic Preservation Act (16 U.S.C. 470–470w); and

(C) can be accomplished in an economically feasible manner;

(2) The FERC held at least one public meeting in Gustavus, Alaska, allowing the citizens of Gustavus to express their views on the proposed project;

(3) The FERC has determined, with the concurrence of the Secretary and the State of Alaska, the minimum amount of land necessary to construct and operate this hydroelectric power project;

(4) Gustavus Electric Company has been granted a license by FERC that requires Gustavus Electric Company to submit an acceptable financing plan to FERC before project construction may commence, and FERC has approved such plan.

SEC. 3. ROLE OF FEDERAL ENERGY REGULATORY COMMISSION.

(a) LICENSE APPLICATION.—(1) The FERC licensing process shall apply to any application submitted by Gustavus Electric Company to FERC for the right to construct and operate a hydro power project on the lands described in subsection (b).

(2) The FERC is authorized to accept and consider an application filed by Gustavus Electric Company for the construction and operation of a hydro power plant to be located on lands within the area described in subsection (b), notwithstanding section 3(2) of the Federal Power Act (16 U.S.C. 796(2)). Such application must be submitted within 3 years from the date of the enactment of this Act.

(3) The FERC will retain jurisdiction over any hydropower project constructed on this site.

(b) ANALYZES.—(1) The lands referred to in subsection (a) of this section are lands in the State of Alaska described as follows:

COPPER RIVER MERIDIAN

Township 39 South, Range 59 East, partially surveyed, Section 36 (unsurveyed) SE¼SW¼, S½SW¼SW¼, NE¼SW¼, W½W½NW¼SE¼, and S½SE¼NW¼. Containing approximately 130 acres.

Township 40 South Range 59 East, partially surveyed, Section 1 (unsurveyed). NW¼, SW¼, W½SE¼, and SW¼SW¼NE¼, excluding U.S. Survey 944 and Native allotment A–442; Section 2 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and U.S. Survey 945; Section 11 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944; Section 12 (unsurveyed), fractional, NW¼NE¼, W½NW¼SW¼NE¼, and those portions of NW¼ and SW¼ lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and Native allotment A–442. Containing approximately 1015 acres.

(2) Additional lands and acreage will be included as needed in the study area described in paragraph (1) to account for accretion to these lands from natural forces;

(3) With the concurrence of the Secretary and the State of Alaska, the FERC shall determine the minimum amount of lands necessary for construction and operation of such project;

(4) The National Park Service shall participate as a joint land agency in the development of any environmental document under the National Environmental Policy Act of 1969 in the licensing of such project. Such environmental document shall consider both the impacts resulting from licensing and any land exchange necessary to authorize such project.

(c) ISSUANCE OF LICENSE.—(1) A condition of the license to construct and operate any portion of the hydroelectric power project shall be the FERC's approval, prior to any commencement of construction, of a finance plan submitted by Gustavus Electric Company.

(2) The National Park Service, as the existing supervisor of potential project lands ultimately to be deleted from the Federal reservation in accordance with this Act, waives its right to impose mandatory conditions on such project lands pursuant to section 4(e) of the Federal Power Act (16 U.S.C. 797(e)).

(3) The FERC shall not license, re-license the project, or amend the project license unless it determines, with the Secretary's concurrence, that the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this Act). Additionally, a condition of the license, or any succeeding license, to construct and operate any portion of the hydroelectric power project shall require the license to mitigate any adverse effects of the project on the purposes and values of Glacier Bay National Park and Preserve identified by the Secretary after the initial licensing.

(4) A condition of the license to construct and operate any portion of the hydroelectric power project shall be the completion, prior to any commencement of construction, of the land exchange described in this Act.

SEC. 4. ROLE OF SECRETARY OF INTERIOR.

(a) SPECIAL USE PERMIT.—Notwithstanding the provisions of the Wilderness Act (16 U.S.C. 1133–1136), the Secretary shall issue a Special Use Permit to Gustavus Electric Company to ensure the completion of the analyzes referred to in Section 3. The Secretary shall impose conditions in the permit as needed to protect the purposes and values of Glacier Bay National Park and Preserve.

(b) PARK SYSTEM.—The lands acquired from the State of Alaska under this Act shall be added to and administered as part of the National Park System, subject to valid existing rights. Upon completion of the exchange of lands under this Act, the Secretary shall adjust, as necessary, the boundaries of the affected National Park System unit(s) to include the lands acquired from the State of Alaska; and adjust the boundary of Glacier Bay National Park and Preserve to exclude the lands transferred to the State of Alaska under this Act. Any such adjustments to the boundaries of National Park System units shall have no effect upon acreage determinations under section 103(b) of the Public Law 96–487.

(c) WILDERNESS AREA BOUNDARIES.—The Secretary shall make any necessary modifications or adjustments of boundaries of wilderness areas as a result of the additions and deletions caused by the land exchange referred in Section 2. Any such adjustments to the boundaries of wilderness area shall have no effect upon acreage determination under section 103(b) of Public Law 96–487.

(d) PAYMENTS.—Gustavus Electric Company shall not required to make Federal land

payments under section 10(e) of the Federal Power Act (16 U.S.C. 803(c)) with respect to the lands to be exchanged under this Act.

(e) CONCURRENCE OF THE SECRETARY.—Whenever in this Act the concurrence of the Secretary is required, it shall not be unlawfully withheld or unreasonably delayed.

By Mr. BIDEN (for himself, Mr. SPECTER, Mrs. BOXER, Ms. SNOWE, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. WELLSTONE, Mr. DODD, Mr. KENNEDY, and Mr. DURBIN)

S. 2110. A bill to authorize the Federal program to prevent violence against women, and for other purposes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT II

Mr. BIDEN. Mr. President, I rise to introduce the ''Violence Against Women Act—II.'' I am pleased to be joined by several Senators who are cosponsoring this legislation—including Senators SPECTER, BOXER, SNOWE, MURRAY, MOSELEY-BRAUN, MIKULSKI, DODD, LAUTENBURG, WELLSTONE, KENNEDY, and DURBIN.

Mr. President, when I introduced the Violence Against Women Act eight years ago—in June, 1990—it was not clear that the Senate would ever even consider this legislation. The fundamental reason—just eight years ago, few thought it either appropriate or necessary for national legislation to confront the problem of domestic violence.

From 1990 to 1993, as chairman of the Judiciary Committee, I convened six hearings on the bill, released six reports on the problems of violence against women, convinced the Judiciary Committee to favorably report the bill to the full Senate on three times and had to re-introduce the bill twice.

But, it was not until November, 1993—nearly 3 and ½ years after introduction—that the full Senate even considered the Violence Against Women Act. In September, 1994, the Violence Against Women Act became law.

But, even passage of the act into law did not end the significant debate on the issue of whether the problem of violence against women merited a national response. As my colleagues will recall, throughout the summer of 1995, the Congress debated whether or not we should actually fund the Violence Against Women Act.

Fortunately, by the fall of 1995, the Congress finally reached a consensus—the Federal Government can and should provide resources and leadership in a national effort to end the violence women suffer at the hands of men who profess to love them.

That consensus has held to this day.

And, at the most practical levels, that consensus has been rewarded:

The murder rate for wives, ex-wives and girlfriends at the hands of their ''intimates'' fell to an 19-year low in both 1995 and 1996.

Thousands of trained police officers are on the streets arresting abusers before they can victimize again; police officers are working as never before to guide victims toward help; prosecutors have been added to the front-lines to put these abusers where they belong—behind bars; tens of thousands of women have been provided the shelters necessary to protect themselves and their children; battered women are being provided a whole range of support services—counseling, legal help for such matters as getting a ''protection from abuse'' orders; and a new national domestic violence hotline has already answered nearly 200,000 calls for help.

Mr. President, our consensus in the Congress reflects a fundamental consensus in our Nation—the time when a woman has to suffer in silence because the criminal who is victimizing her happens to be her husband or boyfriend is over.

Today, we must build on this consensus and deliver on its promise—because for all the strides we have made, there remain far too many women who will go home this evening knowing in the nervous pit of their stomach that there is a better than even chance that they will get the hell beat out of them.

I don't know that any of us who have not been in this situation can truly understand what it must be like—an understanding which would, in turn, also help us recognize the tremendous need to take action.

Perhaps we can gain a glimmer of such an understanding if we recall our school-boy memory—and every man in this Chamber I know has at least one of these—a memory of sitting in class, dreading the time when the recess bell would ring, because the school bully told you that he was going to beat the daylights out of you on the playground. Imagine feeling that dread every day. Imagine feeling that twist in your guts as an adult.

That is what every man in this Senate, this Congress and this Nation must remember as we continue to debate what we can—and what we should—do to combat violence against women.

Mr. President, the legislation I am introducing today—the Violence Against Women Act II—has one simple goal: make more women safe.

This legislation seeks this goal by building on the original Violence Against Women Act—continuing what is working; seeking improvements to fix those efforts which could work better; and expanding the national fight into those areas where the need is clear, but our efforts have neglected.

Beyond describing some of the specifics of the legislation being introduced, I want to make it clear, there are many other ideas and proposals that should be considered before the full Senate debates this legislation. Also, I am sure there are several refinements to improve what is currently in this bill.

There are several Senators who are developing these other proposals and refinements—for there are many Senators who are deeply committed to combating violence against women. And, I hope that my colleagues will review this legislation, offer their insights and lend their names as co-sponsors and leaders in the fight against domestic violence.

Still, as my colleagues review this legislation, I believe they will find that it offers comprehensive and sensible responses to violence against women.

To highlight just some of the specific aspects of this legislation, let me start with what I believe to be the central component of the Violence Against Women Act II—the money, continuing the dollars for cops, prosecutors, judges, shelters, and all the elements which are working.

This requires one simple step—continue the violent crime reduction trust fund which the Biden crime bill set up several years ago. This trust fund is due to expire in the year 2000.

Let me remind everybody how it is funded. We agreed that we would reduce the number of Federal workers by over 200,000. We reduced them by 271,000. We agreed that the paychecks that were being paid to those Federal workers would be taken and put in the trust fund, and that trust fund would only be used to fight crime, a part of which is to fight domestic violence. That fund, that trust fund, that separate entity's authorization expires in the year 2000. This legislation first and foremost extends it, extends it to the year 2002. And it does not relitigate the balanced budget agreement upon which we agreed last year. It is accommodated within that balanced budget agreement.

Beyond this fundamental step, there are four key policy areas addressed in my new legislation.

1. Strengthening law enforcement's tools.

2. Improving services for the victims of violence.

3. Reducing violence against children, not only the frequent and horrible side effects of violence against women but also the wellspring of future generations of abusers because all of the data shows that those who witness abuse, ironically and tragically, tend to become abusers.

4. To bolster the antidomestic violence training and education programs to enlist many more professionals in our fight to deal with violence.

STRENGTHENING LAW ENFORCEMENT

On the law enforcement front, the bill introduced today, starts with needed improvements to bolster the interstate enforcement of ''stay-away'' or protection orders.

To give a practical example, let's say a woman from my home State of Delaware gets one of these protection orders against and old boyfriend who has been stalking and beating the heck out of her. Let's also say she works in Pennsylvania.

This is the scenario which led the original Violence Against Women Act to call on states to honor the protection orders of other states. We did so

because the cops recognize the simple reality—they know what will happen sooner or later if the old boyfriend keeps showing up at the woman's work. And, the cops in Pennsylvania don't want to wait for the worst to happen—they want to nail the guy for violating the protection order, stopping violence before it happens—in other words, community policing.

The problem—the cops in Pennsylvania may not know about that there is a valid protection order issued by the State of Delaware. We propose today a few simple fixes: Permitting state and local cops to use their ''pro-arrest'' grants for this information sharing; encouraging states to enter into the cooperative agreements necessary to help interstate enforcement; and calling on the Justice Department to help develop new protocols and disseminate the ''best practices'' of state and local cops.

Pretty simple, but all are extremely necessary—and I hope we can all support such common sense measures.

I won't go into nearly as much detail in describing the law enforcement initiatives proposed in this bill, but just to ''tick'' some of these off—we propose to: Bolster the resources available for courts to handle domestic violence and sexual assault cases; target the ''date-rape'' drug with the maximum federal penalties; continue funding for police, prosecutors, law enforcement efforts in rural communities, and for anti-stalking initiatives; extend the support of local police ''pro-arrest'' efforts—a program expiring this year; and provide new laws to protect our military support personnel stationed, as well as our female military personnel who may be assaulted off-base—where, too often, lax foreign laws give a ''free-pass'' to their victimizer.

ASSISTING THE VICTIMS OF VIOLENCE

Of course, a comprehensive effort to reduce violence against women and lessen its damages must do more than just arrest, convict and imprison abusers—we must also help the victims of violence. This legislation proposes to assist these crime victims in three fundamental ways:

Immediate protections from their abuser—such as battered women's shelters; help so that they can have access to the courts and legal assistance necessary to keep their abuser away from them; and removing the ''catch-22s'' that may literally often force women to stay with their abuser—such as the discriminatory insurance policies which could force a mother to choose: turn-in the man who is beating me or keep health insurance for her children.

Those are the three general policy goals, but to be more specific, let me outline just how our legislation proposes to boost the protections for the victims of violence:

First and foremost, we must build on our successful effort to provide more shelter space for battered women and their children. Senator specter and the appropriations committee has done tremendous work to boost annual funding for shelters to $78 million—enough for about 200,000 battered women and their children.

Unfortunately, the unmet need for shelter remains significant. For example, data from six states, which together have about 16% of the Nation's population had to turn away more than 45,000 battered women who were seeking shelter because they simply did not have the space. Extrapolating these figures to the entire nation suggests that about 300,000 battered women and their children are turned away from shelters every year.

As I said, the current appropriations for shelter space stands at about $78 million. This legislation boosts this amount to $175 million over the next four years. The additional $100 million over current services will close the ''shelter-gap''—of roughly 300,000 battered women and their children. This will bring us closer to the day when all battered women will have a safe, secure place when they need it most.

Of course, we phase in this increase—but, it is clear to us that we must take the basic, fundamental step if we are to protect these victims of violence.

As I said, we must also provide women with the assistance necessary so that they can get access to help from our justice system. We do so, in some clear and common sense ways, such as:

Re-authorizing the expiring program to provide about $1 million per year for victim/witness counselors in federal court; as Senators WELLSTONE and MOSELEY-BRAUN have recognized, women should not have to chose between showing up at court to make sure her abuser is punished and losing her job—so, this legislation includes their proposal to extend the protections of the Family & Medical Leave Act to the victims of domestic violence;

Continuing the national Domestic Violence Hotline (at a cost of about $2 million per year); and

Developing a national network of trained, volunteer attorneys who will help each of the nearly 100,000 women who, each year, call the national hotline for help.

The other component of our plan to aid the victims of domestic violence is to target what I refer to as the ''catch-22'' problems.

Senator MURRAY has identified one source of just such a ''Catch-22''—the fact that some insurance companies and plans deny women health, disability, property or life insurance protections because the woman is a victim of domestic violence.

In starkest terms, this forces a woman to chose between reporting—and trying to end—the violence she is suffering or her children's health care.

This must end—we must pass Senator MURRAY's proposal, included in this legislation, to protect the victims from abuse from insurance discrimination.

Let me also remind my colleagues that in the original Violence Against Women Act we took bi-partisan action to end another such insidious ''choice.'' In 1994, we worked out provisions so battered immigrant women—whose ability to stay in the country was dependent on their husbands—would not have to chose: stay in America and continue to get beaten or leave their husbands, end the abuse, but have to leave America (perhaps even without their children.)

While we had fixed some aspects of this problem in 1994, there remain other aspects of immigration law which leave a woman with just such a horrible, unfair and immoral choice. With Senator KENNEDY, we have worked to include in this legislation several of these corrections.

I urge my colleagues to support—and even build upon—our efforts to put an end to these real problems.

REDUCING VIOLENCE AGAINST CHILDREN

A third area where this legislation seeks action is on reducing violence against children. As my colleagues know, households where the wife is beaten are much more likely to also be home to child abuse and neglect. In addition, the research findings are clear—children who witness violence are much more likely to repeat the cycle when they are adults and they have a wife and children.

Here, our legislation proposes to continue two long-standing programs—

Resources to serve runaway and homeless youth who are victims of sexual abuse; and

The resources provided for Court-Appointed Special Advocates and special child abuse training for court personnel through the Victims of Child Abuse Act (originally co-sponsored by Senator THURMOND and myself in 1990.)

The current appropriations for all these programs total about $25 million—we propose to increase that annual amount by about $10 million.

IMPROVING RESEARCH AND TRAINING

The remaining area targeted by the Violence Against Women Act—two includes several efforts to help train and educate those already on the frontlines of the battle against violence against women.

Senator BOXER has recognized that one of the leading reasons why women enter hospital emergency rooms is because they were beaten at the hands of a man. So, this bill, includes her proposal to increase the number of health professionals who are trained in the identification, treatment and referral of victims of domestic violence and sexual assault.

Over the past few years, I have worked with several corporations (including, DuPont, Polaroid, Liz Claiborne, and The Body Shop) who have begun their own workplace initiatives—everything from 24-hour assistance hotlines for their employees, training to help managers better recognize domestic violence, and even comprehensive employee assistance efforts.

Helping other companies start or improve—again, on their own initiative—

such anti-violence efforts is the reason this legislation includes a national workplace clearinghouse on violence against women.

The clearinghouse will provide technical assistance and help circulate ''best practices'' to companies interested in combating violence against women.

Another practical problem out in the field relates to the complex nature of criminal investigations into sexual assault cases. To assist the cops in the field who face these investigations, this legislation calls on the Attorney General to evaluate and recommend standards of training and practice of forensic examinations following sexual assaults.

I want to make clear, this legislation does not allow any Federal dictates—but only some assistance to those in the field.

Finally, this legislation continues the authorization for rape prevention and education programs. These programs provide public awareness and education efforts to both teach young women how to protect themselves from rape and attack, as well as to help build their self-esteem.

Mr. President, I have just offered the most general outline of the contents of the Violence Against Women Act—Two. I urge my colleagues to review this legislation. I am confident they will find this bill a comprehensive and practical response which will help us meet a goal I believe is shared by every member of this Senate—making more women safer.

Mr. SPECTER. Mr. President, I am pleased to join my colleagues from both sides of the aisle in introducing the Biden-Specter ''Violence Against Women Act II'' (VAWA II), a bipartisan effort to continue and strengthen the many vital Federal programs which work to combat violence against women. I thank Senator BIDEN in particular for his leadership in crafting this important legislation.

Clearly, violence against women knows no social, economic, or geographic bounds. It affects rich and poor, young and old. Women are assaulted in their homes, on the streets, in the workplace, and on campuses. In 1992, I cosponsored the original ''Violence Against Women Act'' (VAWA), which amended other anti-violence legislation to include acts of violence against women as crimes. Although it did not pass that year, we worked hard to include this vital legislation in the 1994 omnibus anti-crime legislation. Since enactment of the Violence Against Women Act, as a member of the Appropriations Committee, I have worked to ensure that programs under this law are funded adequately.

Domestic violence in particular is an epidemic which VAWA programs seek to address. Within the last year, 3.9 million American women were victims of physical abuse and another 20.7 million were verbally or emotionally abused by their spouse or partner. A recent study found that the medical costs associated with these attacks amount to over $857.3 million. In my State of Pennsylvania, more than 500,000 citizens will be victims of domestic violence each year, and the estimated medical cost exceeds $326 million. In 1995 and 1996, I held hearings in Pennsylvania on the issue of domestic violence and violence against women in general, and have visited battered women's shelters in Pittsburgh and Harrisburg to see first-hand the kind of physical and emotional suffering so many women endure.

Within the Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I chair, Violence Against Women Act programs received $128.7 million for fiscal year 1998. I have also supported Violence Against Women Act programs funded within the Department of Justice, which totaled $270.7 million for fiscal year 1998.

The Biden-Specter VAWA II legislation extends and expands the vital VAWA programs supported by my Subcommittee. Currently funded at $76.5 million, Shelters for Battered Women and Their Children would double its authorization in four years. The National Domestic Violence Hotline, which has received over 120,000 calls since February 1996, is another successful resource which would receive a substantial increase in its authorization. The VAWA II proposal would authorize an additional $15 million over four years for the Rape Prevention and Education Program, currently at $45 million, and would institute new coordination between the Attorney General and the Secretary of Health and Human Services to administer the CDC Prevention and Intervention Research to Combat Violence Against Women.

The Biden-Specter VAWA II legislation also includes provisions to address the issue of violence against women on college campuses across the country. Recognizing the grave importance of battling this problem in a targeted manner, I introduced the ''Campus Crime Disclosure Act of 1998'' (S. 2100) on May 20, 1998. Sexual assaults throughout the United States, including sexual assaults on campuses, are on the rise. Independent research and studies show that 20 percent of college-aged women will be victims of sexual crimes at some point in their post-secondary academic career. Studies also show that rape remains the most underreported violent crime in America, with approximately one in every six rapes reported to police. The Campus Crime Disclosure Act, tightens existing campus security law to discourage higher educational institutions from the underreporting of offenses covered by the 1990 Campus Security Act.

I have also continuously worked to ensure that women receive the benefit of the Federal investment into public health programs. I helped establish the Public Health Service's Office of Women's Health in 1991, which develops, coordinates, and stimulates women's health programs and activities across all Federal agencies. Funding for this program has increased from $450,000 in fiscal year 1991 to $12.5 million in fiscal year 1998. Even in an era of constrained spending, these expenditures are well worthwhile on this important subject.

I believe that by the passage of legislation such as the Biden-Specter Violence Against Women Act II, we are on the right track to helping women to combat the incidence of domestic violence, and victimization in general. I urge my colleagues to join in cosponsoring this important legislation, and I urge its swift adoption.

• Mrs. MURRAY. Mr. President, when I came to the Senate in 1993, violence against women had reached a crisis point. The epidemic had spread through every community, across every ethnic group, and did not discriminate based on income, or age.

In 1994, Congress responded to this crisis. The enactment of the Violence Against Women Act in 1994 established a national strategy for dealing with this crisis. No longer would this kind of violence be tolerated. Congress made violence against women a federal crime and threw the weight of the federal government behind efforts to end this violence.

Senator BIDEN was instrumental in drafting the original VAWA. I am grateful for his efforts in the past and have always appreciated his work on behalf of this issue. I also want to thank Senator SPECTER for his efforts to funding these important programs. I have worked with him on the Appropriations Committee and have experienced first hand the benefits of having him on my side on an important family violence issue in the 1998 Labor, HHS Appropriations bill.

Enactment of VAWA in 1994 for me is one of my top legislative accomplishments. I know that we made a difference. I know that providing the resources to help women who are victims of violence seek safety and justice has saved hundreds of lives. I have visited battered women's shelters and talked to many advocates who tell me how important VAWA is. Reauthorization of this historic act must be a priority of this Congress. We can build on the success of VAWA and work to end violence against women.

I want to thank Senator BIDEN for working with me to include a prohibition against insurance discrimination in this legislation. I find this practice of discriminating against victims of domestic violence offensive and outrageous. To victimize a woman twice is inexcusable. Insurance policies that deny women health insurance or homeowners insurance simply because they have been victims of domestic violence can no longer be tolerated. To say that a victim of domestic violence engages in high risk behavior similar to a sky

diver or race car driver is beyond comprehension. Enactment of VAWA reauthorization legislation will end this practice.

Believe me, insurance discrimination is a reality. I know of several cases, including one in my own state of Washington, where an insurance company refused to honor its obligation because the loss was the result of a domestic violence situation. There are many more documented cases of discrimination. Insurance companies should be ashamed of this kind of practice. Today we have a means to end it.

Enactment of this reauthorization legislation is an important step. But, it is only part of the solution. We must do more. We can help ensure that services are available to protect women and resources to local law enforcement to deal with the epidemic. However, the only real solution to ending domestic violence is economic security and stability for the woman. VAWA offers temporary solutions, but long term solutions require tearing down economic barriers for these women. Work place discrimination, lack of affordable child care, housing shortages, punitive welfare requirements, inability to change a Social Security number are all examples of these barriers.

Removing the economic barriers for victims of domestic violence is our next great challenge. I have been working with advocates in the State of Washington on legislation that would serve to end the economic sanctions many victims face.

But, first we do need to ensure the immediate safety of these women and their children. We need to provide resources to law enforcement to protect women and we need to guarantee that the courts treat offenders as violent criminals. The legislation that we will be introducing today accomplishes these goals.

This is one piece of legislation that will make a difference.●

● Mrs. BOXER. Mr. President, today I call upon my colleagues to support the Violence Against Women Act of 1998 which we introduce today.

Domestic violence is the number one cause of injury to women in the United States. Every 9 seconds, a woman is physically abused by her husband or boyfriend. 42 percent of all murdered women are killed by current or ex-partners. Approximately 95 percent of the victims of domestic violence are women. More than 3 million children witness acts of domestic violence every year.

In 1994, Congress passed the bipartisan Violence Against Women Act (VAWA). Under VAWA, the Department of Justice awarded over $483 million under to the states for domestic violence programs. The largest portion of the money goes toward ''STOP'' grants, which bring together police, prosecutors, counselors, shelter providers and other organizations to develop coordinated services for women dealing with domestic violence.

These funds make a difference in women's lives. My home State of California has received more than $46 million under VAWA, plus an additional $19 million for battered women's shelters and services.

With VAWA funds, Los Angeles County increased the number of shelters from 18 in 1994 to 25 shelters today, adding 200 additional shelter beds for women and children. One organization, the 1736 Family Crisis center, opened a new shelter in large part due to VAWA funds. The Valley Oasis shelter in the high dessert expanded its number of beds significantly, again due in large part to VAWA. Throughout California, VAWA helped fund more than 77 domestic violence shelters.

In California, in fiscal year 1998 alone, VAWA provided: $875,000 to fund domestic violence and children's services such as counseling, shelters, and safety planning; $1.8 million for specialized domestic violence units in local law enforcement agencies; $2.7 million to fund prosecution units that specifically handle domestic violence cases; and $1.2 million for its multi-disciplinary sexual assault response team victim advocate project, which brings together police officers, doctors, nurses, advocates, and counselors to respond to victim's needs within hours of a sexual assault.

VAWA funds sheriffs in San Diego, San Francisco and Los Angeles to conduct domestic violence training for thousands of law enforcement officers and for individuals involved in community-oriented policing (the COPS program) throughout the State. This legislation will help continue and expand these and other programs across the country.

VAWA II includes important improvements. It encourages training for health care providers to help them identify the signs of domestic violence and refer patients to appropriate services. It protects women from the horrors of ''date-rape'' drugs by placing the drug Rohypnol in Federal Schedule 1—the strictest level of federal drug penalties and controls. It improves protections for older women, women with disabilities, and women on college campuses.

With VAWA II, we are taking the next crucial steps to help keep American women and children safe. I commend NOW Legal Defense and Education Fund for its leadership on this issue, and the many organizations that have fought to protect and to provide services for battered women and their children. I urge my colleagues to support this important legislation.●

● Ms. MIKULSKI. Mr. President, I am honored to rise today as an original cosponsor of the Violence Against Women Act II. I commend Senator BIDEN for his hard work on this continuing effort to combat violence against women. I believe we are making great progress as a nation to make our streets and our world safer by cracking down on violent crime. This new law represents the continuing Federal effort to deal with these crucial issues. I am encouraged by the bipartisan support for this bill. Protecting the lives of women and children should not be a partisan issue. Both Democrat and Republican members of the United States Senate are taking a solid stand against the disgraceful and cowardly crime of domestic violence.

Mr. President, I strongly support this important legislation for three reasons. First, this bill continues the fight for a safer world by providing new and continuing grants to improve the criminal justice system's protections for women and children. Second, it provides important training for those involved in the response to citizens abused by domestic violence. Third it expands and strengthens the services available to victims of violence.

The Violence Against Women Act II is a big step forward in the effort to keep women, children and communities safe. One of the most critical components of this bill is the reauthorization of the STOP Grant funds for vital programs in our states. This allows the states to obtain the money they need to create and mobilize effective strategies against violence. In my state of Maryland, the Lieutenant Governor and Attorney General of Maryland created the Family Violence Council to find ways to reduce and prevent family violence. With the STOP Grant funds Maryland received through the 1994 Violence Against Crime Act, the Council has been able to effectively assist a statewide initiative against crime. This money has been used to help Maryland develop policies and procedures against domestic violence. It has been used to ensure the development of the best possible laws to protect victims and hold abusers accountable. We have coordinated community programs that protect victims. We have made efforts to break the cycle of violence between generations. And we have stood together as citizens of Maryland and said that violence against women is something we cannot and will not tolerate.

Second, this legislation provides the authorization for money to train people to respond to domestic abuse. It amends the STOP and Pro-Arrest grants and makes states and local courts specifically eligible for funding. These are the same programs that brought police and prosecutors into the loop of personnel who combat violence toward women. The bill we are introducing today takes the next vital step. It expressly targets funds to the courts and helps engage them in the fight against domestic violence. By educating judicial staff and officers of the court about the special issues raised by violence against women, we completed the circle of people who must work in partnerships to end these crimes. Judges and officers are often the first people a victim will meet in the criminal system when seeking legal intervention. The judicial staff are the ones

who can set the stage for whether or not a victim will proceed with her claim. This legislation ensures that all personnel in the criminal justice system are educated and trained to handle cases of domestic violence. This ensures that the proper support, services and protection are available to those who need it most.

Finally, I support this bill because of the services it provides for the victims of these destructive crimes. In 1992, we witnessed a national travesty. In 1992 the National Domestic Violence Hotline went out of business. Not because there was no domestic violence. At that time, the hotline averaged 7.5 calls an hour, 180 calls a day and 65,520 calls a year. The hotline went out of business because it had no funding. That means lives were lost because our citizens had an emergency hotline number that no longer worked. That means more children were beaten and murdered every day who might have been able to get the help they needed. That means the federal government was not meeting its duty to stop the deadly cycle of violent crime.

We cannot and must not allow this to happen again. That is why in 1994 we included a new provision in the law to authorize grants to revive the national hotline. That is why today we are now increasing and extending authorizations to meet the growing demands on the Hotline. Today any woman or child with access to a telephone can dial 1–800–799–SAFE and get the help they urgently need from a qualified and informed professional.

Domestic violence in this country was ignored for far too long before we passed the first Violence Against Women Act. Annually, at least 2 million children and 2 to 4 million women are abused by the people closest to them. These statistics truly send home a very strong message: The most vulnerable members of our society have historically not been served by our government. These alarming crime rates resound loudly and should be heard by every legislator elected to Congress.

We must remain keenly aware of the fact that four women a day are killed at the hands of their batterer. That fifty-seven percent of children under 12 who are murdered are killed by a parent. That every fifteen seconds a woman is beaten by her husband or boyfriend. The Violence Against Women Act II will continue the effort to combat this violence toward women. The time is now to act and to continue our fight. No woman should live in fear that any person will get away with hurting her or her children. I have stated in the past that if you intend to harm a woman that you better stay out of my state of Maryland. I strongly encourage every single member of the Senate to not only vote for, but to actively support this crucial legislation.●

● Mr. WELLSTONE. Mr. President, I rise today as a proud co-sponsor of this Violence Against Women Act. I was a co-sponsor of the original Violence Against Women Act of 1994 and will work hard to see this Violence Against Women Act pass as well. As you well know my wife Sheila and I do a lot of work trying to reduce violence in homes. That is a big priority for us. And the passage of the 1994 Violence Against Women Act was a first big step and an historical occasion.

It was the culmination of over twenty-five years of hard work by local and national organizations. It was an acknowledgment that this kind of violence within families is everybody's business. It was the public recognition that for all too many women the home, rather than being a safe place is a very dangerous place. And finally it sent a clear message that violence against women was a crime that would not be tolerated. It sent a clear message that we as a nation were committed to ending violence against women. At that time we thought we were introducing a comprehensive bill to end violence against women. We have learned a great deal since the passage of the first Act and with that knowledge we know we can and must do better. We have also learned that violence against women is multi-faceted problem that must be addressed in many ways. While the first Act provided important funding to improve services to abused women and improve the criminal justice system, the statistics show we must do more. In my own state of Minnesota, at least 17 women were killed in 1997 by their intimate partners. In that same year, over 4,000 women and over 5,000 children used domestic violence shelters in my state. I am sure that the provisions provided in VAWA allowed so many women to be served. I am sure that the provision in WAVA allowed law enforcement, in my state and across the country, to better address cases of domestic abuse. But now we must broaden our approach to this critical problem.

And so today we introduce the Violence Against Women Act II. This legislation not only reauthorizes and improves the initial commitment set forth in VAWA, but also addresses the impact of violence against women in areas of child visitation, sexual assault prevention, insurance discrimination, as well as violence in the workplace and on campuses. The initiatives in this bill, as I'm sure my colleague JOE BIDEN will attest, were developed as part of a collaborative effort with researchers, advocates and service providers alike. Seeing the problems that victims face on a daily basis, they have helped us to develop legislation that will assist women who have been victims of violence.

I have worked hard at addressing the severe economic consequences of domestic abuse on working women and am proud to say that VAWA II includes provisions to ensure access to family and medical leave coverage. With the passage of this Act women will be allowed to be absent from work so that they can deal with the domestic violence in their lives. Under this legislation victims of abuse could use family and medical leave to attend court hearings and go to appointments with health care providers. In addition this legislation specifies that unemployment compensation should be provided if employment is terminated due to domestic abuse. If a woman loses her job because of the abuse she is experiencing in her home then she will be assured access to unemployment compensation. In other words, this legislation addresses the fact that the cycle of violence will not be interrupted unless victims of abuse are assured of economic security and independence.

Another facet of domestic violence that has been recognized since the passage of the 1994 Violence Against Women Act is the discrimination that victims of abuse face. I have worked hard at ending discrimination by insurance companies against victims of abuse and am proud to be able to say that this issue is well addressed in VAWA II. After years of work by advocates, encouraging women to come forward and report their abuse, we now find that they are being discriminated against based on their status as victims of that abuse. We all know that denying women access to insurance they need to foster their mobility out of an abusive situation must be stopped. Under this legislation insurance companies could no longer discriminate against victims of abuse in any line of insurance.

And finally, I would just like to mention the provision to provide safe havens for children. It is time we address the danger that children and victims of abuse are subjected to during visitation sessions with former partners. Let us stop further violence from occurring by providing safe centers for children who are members of families in which violence is a problem. These centers will provide a safe environment in which children can visit with their parents without risk of being exposed to violence in the context of their family relationships. These centers will also save the lives of mothers by providing secure and supervised environments where they can drop off their children to visit with their abusers. Stopping the cycle of violence means providing safe places for women and children inside and outside the home.

While we worked hard in the first Violence Against Women Act to make streets and homes safer for women by investing in law enforcement initiatives, we have learned that a woman's safety is dependent on her ability to achieve economic as well as physical security. The measures that I have mentioned are only some of the pieces that show the comprehensive nature of this bill. It is a reflection of what we have learned and the acknowledgment that we can and must do better. The Violence Against Women Act II is an impressive piece of legislation that deserves serious attention in this Congress. I look forward to the hearings

and debates on this bill and look forward to working on and seeing it pass.●

By Mr. SMITH of Oregon:

S. 2111. A bill to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under memorandum of understanding, and for other purposes; to the Committee on Energy and Natural Resources.

COLUMBIA RIVER AND SNAKE RIVER LEGISLATION

● Mr. SMITH of Oregon. Mr. President, today I am introducing legislation to establish the conditions under which certain Federal agencies may enter into a memorandum of agreement with non-federal entities concerning management of the Columbia River and Snake River Basin in the States of Idaho, Montana, Oregon, and Washington.

This bill is not an endorsement of the draft Three Sovereigns agreement, but arises from ongoing concerns I have about the proposal. The livelihoods of many Northwest residents are at stake in upcoming decisions about Columbia River operations, and they deserve a voice in this process.

The bill formalizes public input to federal agencies involved in the proposed ''Three Sovereigns'' agreement, or any similar agreement, by creating an advisory committee representing: local governments; customers of the Bonneville Power Administration; upstream ports; fishing interests; shippers; irrigators; environmentalists; forest land owners and grazers. This committee will advise the federal agencies on matters to be addressed under the agreement, including the economic and social impacts of any proposed recommendations.

Currently, two significantly different drafts of a ''Memorandum of Agreement for Three Sovereigns' Governance of the Columbia River Basin Ecosystem'' are out for public comment. However, the public comment process was so ill-defined initially that I had to write one of the chief proponents of the agreement to request that this process be better defined. Further, it has been reported to me that at the public meeting held in Pendleton, Oregon, on the draft agreement, there was no clerk reporter to record people's comments in detail. This has not given those who depend on the river system much confidence in their ability to provide input into any forum established under a Three Sovereigns' agreement.

Developing a successful regional solution to management of the Columbia/Snake River system will involve a broad range of stakeholders. While not a perfect model, the 1994 Bay-Delta Accord in California has been successful, in large part, because the water users and environmental groups were parties to the Accord. The bill would not, however, require changes in the draft memorandum of agreement itself, or impose conditions on the states or the tribes. But it is appropriate for the Congress to establish certain conditions for federal participation in any such agreement.

In addition to establishing this advisory committee, the bill requires each federal agency that is a signatory to the Three Sovereigns' agreement to publish and make available to the public, including over the Internet, all scientific data used to formulate recommendations and all methodologies used to prepare cost-benefit analyses.

The bill also provides a mechanism to resolve disputes among federal agencies involved in the Three Sovereigns' agreement. The Director of the Office of Management and Budget will designate an official who, at the request of a non-federal party to the agreement, will have the authority to reconcile differences between the federal agencies on any issue before the Three Sovereigns. In this manner, the non-federal signatories are not caught between differing federal agencies.

The Three Sovereigns' agreement, if signed, would establish a process that is very similar to the statutory obligations of the Northwest Power Planning Council with respect to fish and wildlife recommendations. Therefore, the bill requires the Council to report to the Congress annually on how the recommendations on fish and wildlife activities under any agreement would be coordinated and reconciled with the Council's statutory responsibilities.

Finally, to enhance budget coordination among federal agencies regardless of whether an agreement is entered into, the bill requires that the President's annual budget proposal include a cross-cut budget showing proposed spending for activities in the basin by the federal agencies.

I urge my colleagues to support this legislation, and to support stakeholder involvement in the development of a regional solution to Columbia and Snake River issues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2111

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

SECTION 1. DEFINITIONS.

In this Act:

(1) ADVISORY COMMITTEE.—The term ''advisory committee'' means the advisory committee established by the Secretary under section 2(b).

(2) COLUMBIA/SNAKE RIVER BASIN.—The term ''Columbia/Snake River Basin'' means the basin of the Columbia River and Snake River in the States of Idaho, Montana, Oregon, and Washington.

(3) COUNCIL.—The term ''Council'' means the Pacific Northwest Electric Power and Conservation Planning Council established under the Pacific Northwest Electric Power and Conservation Planning Act (16 U.S.C. 839 et seq.).

(4) FEDERAL AGENCY.—The term ''Federal agency'' means—

(A) the Bonneville Power Administration in the Department of Energy;

(B) the Bureau of Land Management, Bureau of Reclamation, United States Fish and Wildlife Service, and the Bureau of Indian Affairs in the Department of the Interior;

(C) the National Marine Fisheries Service in the Department of Commerce;

(D) the Army Corps of Engineers in the department of the Army;

(E) the Forest Service and the Natural Resource Conservation Service in the Department of Agriculture; and

(F) the Environmental Protection Agency.

(5) MEMORANDUM OF UNDERSTANDING.—The term ''memorandum of understanding'' means any written or unwritten agreement between or among 1 or more of the Federal agencies and 1 or more State or local government agencies, 1 or more Indian tribes, or 1 or more private persons or entities—

(A) concerning the manner in which any authority of a Federal agency under any law is to be exercised within the Columbia/Snake River Basin; or

(B) for the purpose of formulating recommendations concerning the manner in which any such authority should be exercised.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2. CONDITIONS ON MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—The Bonneville Power Administration or any other Federal agency, acting individually or with 1 or more of the other Federal agencies, shall not enter into or implement a memorandum of understanding unless all of the conditions stated in this section are met.

(b) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) to advise the Federal agencies with respect to matters to be addressed under any memorandum of understanding, including the economic and social impacts of proposed activities or recommendations.

(2) MEMBERSHIP.—The advisory committee shall be composed of—

(A) 1 representative of the large industrial customers served directly by the Bonneville Power Administration;

(B) 1 representative of the preference power customers that purchase power from the Bonneville Power Administration;

(C) 1 representative of non-Federal utilities that have hydropower generation on the Columbia River or Snake River;

(D) 1 irrigator that receives water diverted from a Federal water project on the Snake River;

(E) 1 irrigator that receives water diverted from a Federal water project on the Columbia River or a tributary of the Columbia River (other than a tributary that is also a tributary of the Snake River);

(F) 1 private forest land owner;

(G) 1 representative of the commercial fishing industry;

(H) 1 representative of the sport fishing industry;

(I) 1 representative of the environmental community;

(J) 1 representative of a river port upstream of Bonneville Dam;

(K) 1 representative of shippers that ship from places upstream of any lock on the Columbia River;

(L) 1 representative of persons that hold Federal grazing permits; and

(M) 1 representative of county governments from each of the States of Oregon, Washington, Idaho, and Montana.

(3) MANNER OF APPOINTMENT.—The members of the advisory committee shall be appointed by the Secretary of the Interior from among persons nominated by the Governors of the States of Idaho, Montana, Oregon, and Washington.

(4) CHAIRPERSON.—At the first meeting of the advisory committee, the members shall select 1 of the members to serve as chairperson, on a simple majority vote.

(5) COMPENSATION.—A member of the advisory committee shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties of the advisory committee.

(6) SUPPORT.—The Secretary shall—

(A) provide such office space, furnishings and equipment as may be required to enable the advisory committee to perform its functions; and

(B) furnish the advisory committee with such staff, including clerical support, as the advisory committee may require.

(7) OPPORTUNITY TO FORMULATE AND PRESENT VIEWS.—The advisory committee shall be afforded a reasonable opportunity to—

(A) attend each meeting convened under the memorandum of understanding; and

(B) formulate and present its views on each matter addressed at the meeting.

(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the activities of the advisory committee a total of $1,000,000 during the period in which the advisory committee is in existence.

(9) TERMINATION.—The advisory committee shall terminate on termination of the memorandum of understanding.

(c) RECONCILIATION OF DIFFERENCES.—The Director of the Office of Management and Budget shall designate an official who, at the request of a non-Federal party to any memorandum of understanding, shall have authority to reconcile differences between the Federal agencies on any issue relating to activities addressed under the memorandum of understanding.

(d) PUBLIC AVAILABILITY OF DATA AND METHODOLOGIES.—Each Federal agency shall publish and make available to the public, through use of the Internet and by other means—

(1) all scientific data that are prepared by or made available to the Federal agency for use for the purpose of formulating recommendations regarding any matter addressed under any memorandum of understanding; and

(2) all methodologies that are prepared by or made available to the Federal agency for the purpose of assessing the cost or benefit of any activity addressed under any memorandum of understanding.

(e) REPORTING BY THE COUNCIL.—

(1) IN GENERAL.—Not later than 30 days before the beginning of each fiscal year, the Council shall submit to Congress a report that describes how the recommendations on fish and wildlife activities under any memorandum of understanding during the fiscal year will be reconciled and coordinated with activities of the Council under the Pacific Northwest Electric Power and Conservation Planning Act (16 U.S.C. 839 et seq.).

(2) COOPERATION.—Each Federal agency that is a party to a memorandum of understanding shall provide the Council such information and cooperation as the Council may request to enable the Council to make determinations necessary to prepare a report under paragraph (1).

SEC. 3. BUDGET INFORMATION.

(a) IN GENERAL.—The President shall include in each budget of the United States Government for a fiscal year submitted under section 1105 of title 31, United States Code, a separate section that states for each Federal agency the amount of budget authority and outlays proposed to be expended in the Columbia/Snake River Basin (including a pro rata share of overhead expenses) for the fiscal year.

(b) ITEMIZATION.—The statement of budget authority and outlays for the Columbia/Snake River Basin under subsection (a) for each Federal agency shall be stated in the same degree of specificity for each category of expense as in the statement of budget authority and outlays for the entire Federal agency elsewhere in the budget.●

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 442

At the request of Mr. WYDEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 442, a bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 971

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 971, a bill to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes.

S. 1037

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearinghouse and electronic networks for the distribution of child care information, to improve the quality of child care provided through Federal facilities and programs, and for other purposes.

S. 1334

At the request of Mr. BOND, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1351

At the request of Mr. BURNS, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1351, a bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1645

At the request of Mr. ABRAHAM, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1645, a bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

S. 1727

At the request of Mr. LEAHY, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 1727, a bill authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new a generic top-level domains and related dispute resolution procedures.

S. 1759

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 2001

At the request of Mr. MURKOWSKI, the name of the Senator from Oklahoma

(Mr. INHOFE) was added as a cosponsor of S. 2001, a bill to amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2022

At the request of Mr. DEWINE, the names of the Senator from Ohio (Mr. GLENN), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2044

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2044, a bill to assist urban and rural local education agencies in raising the academic achievement of all of their students.

S. 2070

At the request of Mr. DEWINE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2070, a bill to provide for an Underground Railroad Educational and Cultural Program.

S. 2077

At the request of Mr. FORD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2077, a bill to maximize the national security of the United States and minimize the cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes.

SENATE CONCURRENT RESOLUTION 80

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution urging that the railroad industry, including rail labor, management and retiree organization, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity.

SENATE CONCURRENT RESOLUTION 82

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Concurrent Resolution 82, a concurrent resolution expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights.

SENATE CONCURRENT RESOLUTION 97

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan.

SENATE RESOLUTION 188

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of Senate Resolution 188, a resolution expressing the sense of the Senate regarding Israeli membership in a United Nations regional group.

SENATE RESOLUTION 192

At the request of Mr. BIDEN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of Senate Resolution 192, a resolution expressing the sense of the Senate that institutions of higher education should carry out activities to change the culture of alcohol consumption on college campuses.

SENATE CONCURRENT RESOLUTION 98—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. GREGG (for Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

S. CON RES. 98

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, May 21, 1998, Friday, May 22, 1998, Saturday, May 23, 1998, or Sunday, May 24, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, June 1, 1998, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, May 22, 1998, or Saturday, May 23, 1998, pursuant to a motion made by the Majority Leader or his designee in accordance with this concurrent resolution, it stand adjourned until 2:00 p.m. on Wednesday, June 3, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

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

SENATE RESOLUTION 233—TO AUTHORIZE TESTIMONY AND DOCUMENT PRODUCTION AND REPRESENTATION OF SENATE EMPLOYEES

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. Res. 233

Whereas, in the case of *People* v. *James Eugene Arenas*, Case No. 98F2403, pending in the Municipal Court for Fresno, California, testimony and document production have been requested from Kelly Gill, an employee on the staff of Senator Barbara Boxer;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony or the production of documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United Stats and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Revolved, That Kelly Gill, and any other employee from whom testimony or document production may be required, are authorized to testify and produce documents in the case of *People* v. *James Eugene Arenas,* except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Kelly Gill, and any other employee from whom testimony or document production may be required, in connection with *People* v. *James Eugene Arenas*

SENATE RESOLUTION 234—TO HONOR STUART BALDERSON

Mr. STEVENS (for himself, Mr. LOTT, Mr. DASCHLE, Mr. BYRD, and Mr. WARNER): submitted the following resolution; which was considered and agreed to:

S. RES. 234

Resolved, That Stuart Balderson is named Financial Clerk Emeritus of the United States Senate.

SEC. 2. That Rule XXIII is amended by adding after ''Parliamentarian Emeritus;; the following ''and the Financial Clerk Emeritus.''

AMENDMENTS SUBMITTED

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

SMITH AMENDMENT NO. 2435

(Ordered to lie on the table.)

Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill (S. 1415) to reform and

restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; as follows:

On page 182, strike lines 11 through 23, and insert the following:

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the participating tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in paragraph (4) and section 403:

(1) For year 1—$14,400,000,000;

(2) For year 2, an amount equal to the product of $1.00 and the total number of units of tobacco products that were sold in the United States in the previous year.

(3) For year 3, an amount equal to the product of $1.50 and the total number of units of tobacco products that were sold in the United States in the previous year.

(4) For year 4, and each subsequent year, an amount equal to the amount paid in the prior year, multiplied by a ratio in which the numerator is the number of units of tobacco products sold in the prior year and the denominator is the number of units of tobacco products sold in the year before the prior year, adjusted in accordance with section 403.

Beginning on page 192, strike line 6 and all that follows through line 23 on page 199, and insert the following:

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 10 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury.

(2) APPROPRIATION.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act including smoking cessation and related public health programs.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited to the trust fund under section 401(b)(1), 10 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) For the Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, of the total amounts allocated to this account, not more than 5 percent shall be used for this purpose.

(B) For the National Institutes of Health under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not more than 5 percent shall be used for this purpose.

(c) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year 10 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(d) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year 70 percent, and all of the revenues credited to the trust fund under section 401(b)(3), shall be allocated to this account for the first 10 years after the date of enactment of this Act. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

GRAMM (AND OTHERS) AMENDMENT NO. 2436

Mr. GRAMM (for himself, Mr. DOMENICI, and Mr. FAIRCLOTH) proposed an amendment to the motion to recommit proposed by Mr. GRAMM to the bill, S. 1415, supra; as follows:

SEC. 1406. RESOLUTION OF AND LIMITATIONS ON CIVIL ACTIONS.

(a) STATE ATTORNEY GENERAL ACTIONS.—

(1) PENDING CLAIMS.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall resolve any civil action seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions that have been commenced by the State against a tobacco product manufacturer, distributor, or retailer that is pending on the date of enactment of this Act.

(2) FUTURE ACTIONS BASED ON PRIOR CONDUCT.—With respect to a State, to be eligible to receive payments from the State Litigation Settlement Account, the attorney general for such State shall agree that the State will not commence any new tobacco claim after the date of enactment of this Act (other than to enforce the terms of a previous judgment) that is based on the conduct of a participating tobacco product manufacturer, distributor, or retailer that occurred prior to the date of enactment of this Act, seeking recovery for expenditures attributable to the treatment of tobacco induced illnesses and conditions against such a participating tobacco product manufacturer, distributor, or retailer.

(3) APPLICATION TO LOCAL GOVERNMENTAL ENTITIES.—The requirements described in paragraphs (1) and (2) shall apply to civil actions commenced by or on behalf of local governmental entities for the recovery of costs attributable to tobacco-related illnesses if such localities are within a State whose attorney general has elected to resolve claims under paragraph (1) and enter into the agreement described in paragraph (2). Such provisions shall not apply to those local governmental entities that are within a State whose attorney general has not resolved such claims or entered into such agreements.

(b) STATE AND LOCAL OPTION FOR ONE-TIME OPT OUT.—

(1) IN GENERAL.—The Secretary shall establish procedures under which the attorney general of a State may, not later than 1 year after the date of enactment of this Act, elect not to resolve an action described in subsection (a)(1) or not to enter into an agreement under subsection (a)(2). A State whose attorney general makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a State to make such an election on a one-time basis.

(2) EXTENSION.—In the case of a State that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in an action described in subsection (a)(1) prior to or during the period described in paragraph (1), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(3) APPLICATION TO CERTAIN STATES.—A State that has resolved a tobacco claim described in subsection (a)(1) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in paragraph (1) if, as part of the resolution of such claim, the State agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(4) LOCAL GOVERNMENTAL ENTITY OPTION FOR ONE-TIME OPT OUT.—

(A) IN GENERAL.—The Secretary shall establish procedures under which the attorney for a local governmental entity which commenced a civil action prior to June 20, 1997, against a participating tobacco product manufacturer, distributor, or retailer seeking recovery for expenditures attributable to the treatment of tobacco related illnesses and conditions, not later that 1 year after the date of enactment of this Act, may elect not to resolve any action described in subsection (a)(3). A local governmental entity whose attorney makes such an election shall not be eligible to receive payments from the State Litigation Settlement Account. Procedures under this paragraph shall permit such a local governmental entity to make such an election on a one-time basis.

(B) EXTENSION.—In the case of a local governmental entity that has secured a judgment against a participating tobacco product manufacturer, distributor, or retailer in a claim described in subsection (a)(3) prior to or during the period described in subparagraph (A), and such judgment has been appealed by such manufacturer, distributor, or retailer, such period shall be extended during the pendency of the appeal and for an additional period as determined appropriate by the Secretary, not to exceed one year.

(C) APPLICATION TO CERTAIN LOCAL GOVERNMENTAL ENTITIES.—A local governmental entity that has resolved a claim described in subsection (a)(3) with a participating tobacco product manufacturer, distributor, or retailer prior to the date of enactment of this Act may not make an election described in subparagraph (A) if, as part of the resolution of such claim, the local governmental entity agreed that the enactment of any national tobacco settlement legislation would supersede the provisions of the resolution.

(c) ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.—

(1) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(2) CASTANO CIVIL ACTIONS.—

(A) IN GENERAL.—The rights and benefits afforded in section 221 of this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute a remedy for the purpose of determining civil liability as to those addiction or dependence claims asserted in the Castano Civil Actions. The Castano Civil Actions shall be dismissed to the extent that they seek relief in the nature of public programs to assist addicted smokers to overcome their addiction or other publicly available health programs with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions in accordance with this Act.

(B) ARBITRATION.—For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(C) PAYMENT OF AWARDS.—The participating tobacco product manufacturers shall pay the arbitration award.

(d) RULES OF CONSTRUCTION.—

(1) POST ENACTMENT CLAIMS.—Nothing in this title shall be construed to limit the ability of a government or person to commence an action against a participating tobacco product manufacturer, distributor, or retailer with respect to a claim that is based on the conduct of such manufacturer, distributor, or retailer that occurred after the date of enactment of this Act.

(2) NO LIMITATION ON PERSON.—Nothing in this title shall be construed to limit the right of a government (other than a State or local government as provided for under subsection (a) and (b)) or person to commence any civil claim for past, present, or future conduct by participating tobacco product manufacturers, distributors, or retailers.

(3) CRIMINAL LIABILITY.—Nothing in this title shall be construed to limit the criminal liability of a participating tobacco product manufacturer, distributor or retailer or its officers, directors, employees, successors, or assigns.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' means an individual, partnership, corporation, parent corporation or any other business or legal entity or successor in interest of any such person.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

At the appropriate place, insert:

SEC. ___. ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

''(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the excess (if any) of—

''(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

''(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000.

''(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

''(A) after application of sections 86, 219, and 469, and

''(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

''(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the $50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 1998' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.''

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

''(18) DEDUCTION FOR MARRIED COUPLES.—The deduction allowed by section 222.''

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

''(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222.''

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

''Sec. 222. Deduction for married couples to eliminate the marriage penalty.

''Sec. 223. Cross reference.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

DURBIN (AND OTHERS) AMENDMENT NO. 2437

Mr. DASCHLE (for Mr. DURBIN, for himself, Mr. DEWINE, Mr. WYDEN, Mr. CHAFEE, Mr. HARKIN, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. DASCHLE, Mr. CONRAD, and Mr. REED) proposed an amendment to amendment No. 2436 proposed by Mr. GRAMM to the bill, S. 1415, supra; as follows:

In the amendment strike pages 10 through 13 and insert the following:

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to create incentives to achieve reductions in the percentage of children who use tobacco products and to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle (except as provided in subsection 205(h)), cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(f) ADDITIONAL MEASURES.—In order to increase the understanding of youth tobacco product use, the Secretary may, for informational purposes only, add additional measures to the survey under subsection (a), conduct periodic or occasional surveys at other times, and conduct surveys of other populations such as young adults. The results of such surveys shall be made available to manufacturers and the public to assist in efforts to reduce youth tobacco use.

(g) TECHNICAL ADJUSTMENTS.—The Secretary may make technical changes in the manner in which surveys are conducted under this section so long as adjustments are made to ensure that the results of such surveys are comparable from year to year.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) REPORT ON FURTHER REDUCTIONS.—The Secretary shall report to Congress by the end of 2006 on the feasibility of further reduction in underage tobacco use.

(f) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(g) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(h) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been achieved and if each manufacturer has achieved the applicable performance objective under section 204. The Secretary shall publish in the Federal Register such determinations and any appropriate additional information regarding actions taken under this section.

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—

(1) INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco

product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) CIGARETTES.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) SMOKELESS TOBACCO.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the them ''manufacturer's share of youth incidence'' means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) DE MINIMIS LEVELS.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(e) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) BUSINESS EXPENSE DEDUCTION.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) PROCEDURES.—In assessing price increase assessments and enforcing other measures under this section, the Secretary shall have in place procedures to take into account the effect that the margin of error of the annual performance survey may have on the amounts assessed to or measures required of such manufacturers.

(h) OTHER PRODUCTS.—The Secretary shall promulgate regulations establishing performance objectives for the reduction of the use by children of other products made or derived from tobacco and intended for human consumption if significant percentages of children use or begin to use such products and the inclusion of such products as types of tobacco products under this subtitle would help protect the public health. Such regulations shall contain provisions, consistent with the provisions in this subtitle applicable to cigarettes and smokeless tobacco, for the application of assessments and surcharges to achieve reductions in the percentage of children who use such products.

(i) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(j) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) CHILDREN.—The term ''children'' means individuals who are 12 years of age or older and under the age of 18.

(2) CIGARETTE MANUFACTURERS.—The term ''cigarette manufacturers'' means manufacturers of cigarettes sold in the United States.

(3) EXISTING MANUFACTURER.—The term ''existing manufacturer'' means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) NEW MANUFACTURER.—The term ''new manufacturer'' means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) NON-ATTAINMENT PERCENTAGE.—The term ''non-attainment percentage'' means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term ''smokeless tobacco product manufacturers'' means manufacturers of smokeless tobacco products sold in the United States.

DURBIN (AND OTHERS) AMENDMENT NO. 2438

Mr. DASCHLE (for Mr. DURBIN, for himself, Mr. DEWINE, Mr. WYDEN, Mr. CHAFEE, Mr. HARKIN, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. DASCHLE, Mr. CONRAD, and Mr. REED) proposed an amendment to amendment No. 2437 proposed by Mr. DURBIN to the bill, S. 1415, supra; as follows:

In the Amendment strike all after ''Subtitle'' and insert the following:

In title II, strike subtitle A and insert the following:

Subtitle A—Performance Objectives to Reduce Underage Use

SEC. 201. FINDINGS.

Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and insure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSES AND GOALS.

(a) PURPOSE.—It is the purpose of this subtitle to create incentives to achieve reductions in the percentage of children who use tobacco products and to ensure that, in

the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways, including by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and by providing support for further reduction efforts.

(b) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required performance objectives for percentage reductions in underage use of tobacco products set forth in this title are achieved.

SEC. 203. ANNUAL PERFORMANCE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning not later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (e)(1), to determine for each type of tobacco product—

(1) the percentage of all children who used such type of tobacco product within the past 30 days; and

(2) the percentage of children who identify each brand of each type of tobacco product as the usual brand of the type smoked or used within the past 30 days.

(b) USE OF PRODUCT.—A child shall be considered to have used a manufacturer's tobacco product if the child identifies the manufacturer's tobacco product as the usual brand of tobacco product smoked or used by the child within the past 30 days.

(c) SEPARATE TYPES OF PRODUCTS.—For purposes of this subtitle (except as provided in subsection 205(h)), cigarettes and smokeless tobacco shall be considered separate types of tobacco products.

(d) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information, or described in the information, being identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purposes. The information may not be published or released in any other form if the individual supplying the information, or described in the information, is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(e) METHODOLOGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) measure use of each type of tobacco product within the past 30 days;

(C) identify the usual brand of each type of tobacco product used within the past 30 days; and

(D) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(D) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of children reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of the tobacco products of a manufacturer) is such that the 95 percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(f) ADDITIONAL MEASURES.—In order to increase the understanding of youth tobacco product use, the Secretary may, for informational purposes only, add additional measures to the survey under subsection (a), conduct periodic or occasional surveys at other times, and conduct surveys of other populations such as young adults. The results of such surveys shall be made available to manufacturers and the public to assist in efforts to reduce youth tobacco use.

(g) TECHNICAL ADJUSTMENTS.—The Secretary may make technical changes in the manner in which surveys are conducted under this section so long as adjustments are made to ensure that the results of such surveys are comparable from year to year.

SEC. 204. PERFORMANCE OBJECTIVES.

(a) BASELINE LEVEL.—The baseline level for each type of tobacco product, and for each manufacturer with respect to each type of tobacco product, is the percentage of children determined to have used such tobacco product in the first annual performance survey (in 1999).

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—For the purpose of determining industry-wide non-attainment assessments, the performance objective for the reduction of the percentage of children determined to have used each type of tobacco product is the percentage in subsection (d) as measured from the baseline level for such type of tobacco product.

(c) PERFORMANCE OBJECTIVES FOR EXISTING MANUFACTURERS.—Each existing manufacturer shall have as a performance objective the reduction of the percentage of children determined to have used each type of such manufacturer's tobacco products by at least the percentage specified in subsection (d) as measured from the baseline level for such manufacturer for such product.

(d) REQUIRED PERCENTAGE REDUCTIONS.—The reductions required in this subsection are as follows:

(1) In the case of cigarettes—

(A) with respect to the third and fourth annual performance surveys, 20 percent;

(B) with respect to the fifth and sixth annual performance surveys, 40 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 55 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 67 percent.

(2) In the case of smokeless tobacco—

(A) with respect to the third and fourth annual performance surveys, 12.5 percent;

(B) with respect to the fifth and sixth annual performance surveys, 25 percent;

(C) with respect to the seventh, eighth, and ninth annual performance surveys, 35 percent; and

(D) with respect to the 10th annual performance survey and each annual performance survey thereafter, 45 percent.

(e) REPORT ON FURTHER REDUCTIONS.—The Secretary shall report to Congress by the end of 2006 on the feasibility of further reduction in underage tobacco use.

(f) PERFORMANCE OBJECTIVE RELATIVE TO THE DE MINIMIS LEVEL.—If the percentage of children determined to have used a type of the tobacco products of an existing manufacturer in an annual performance survey is equal to or less than the de minimis level, the manufacturer shall be considered to have achieved the applicable performance objective.

(g) PERFORMANCE OBJECTIVES FOR NEW MANUFACTURERS.—Each new manufacturer shall have as its performance objective maintaining the percentage of children determined to have used each type of such manufacturer's tobacco products in each annual performance survey at a level equal to or less than the de minimis level for that year.

(h) DE MINIMIS LEVEL.—The de minimis level shall be 1 percent of children for the applicable year.

SEC. 205. MEASURES TO HELP ACHIEVE THE PERFORMANCE OBJECTIVES.

(a) ANNUAL DETERMINATION.—Beginning in 2001, and annually thereafter, the Secretary shall, based on the annual performance surveys conducted under section 203, determine if the performance objectives for each type of tobacco product under section 204 has been achieved and if each manufacturer has achieved the applicable performance objective under section 204. The Secretary shall publish in the Federal Register such determinations and any appropriate additional information regarding actions taken under this section.

(b) INDUSTRY-WIDE NON-ATTAINMENT ASSESSMENTS.—

(1) INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage, if any, for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT ASSESSMENT FOR CIGARETTES.—For each calendar year in which the performance objective under section 204(b) is not attained for cigarettes, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$40,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$200,000,000, plus $120,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$2,000,000,000

(3) NON-ATTAINMENT ASSESSMENT FOR SMOKELESS TOBACCO.—For each year in which the performance objective under section 204(b) is not attained for smokeless tobacco, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percentage points	$4,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 20 percentage points	$20,000,000, plus $12,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 20 percentage points
More than 20 percentage points	$200,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under this subsection shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under paragraph (2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under paragraph (3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall allocate the assessments under this subsection according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(c) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by a manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(2) CIGARETTES.—For each calendar year in which a cigarette manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for cigarettes multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$80,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$400,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$5,000,000,000

(3) SMOKELESS TOBACCO.—For each calendar year in which a smokeless tobacco product manufacturer fails to achieve the performance objective under section 204(c), the Secretary shall assess a surcharge on that manufacturer in an amount equal to the manufacturer's share of youth incidence for smokeless tobacco products multiplied by the following surcharge level:

If the non-attainment percentage for the manufacturer is:	The surcharge level is:
Not more than 5 percentage points	$8,000,000 multiplied by the non-attainment percentage
More than 5 but not more than 24.1 percentage points	$40,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 5 but not in excess of 24.1 percentage points
More than 24.1 percentage points	$500,000,000

(4) MANUFACTURER'S SHARE OF YOUTH INCIDENCE.—For purposes of this subsection, the them ''manufacturer's share of youth incidence'' means—

(A) for cigarettes, the percentage of all youth smokers determined to have used that manufacturer's cigarettes; and

(B) for smokeless tobacco products, the percentage of all youth users of smokeless tobacco products determined to have used that manufacturer's smokeless tobacco products.

(5) DE MINIMIS LEVELS.—If a manufacturer is a new manufacturer or the manufacturer's baseline level for a type of tobacco product is less than the de minimis level, the non-attainment percentage (for purposes of paragraph (2) or (3)) shall be equal to the number of percentage points by which the percentage of children who used the manufacturer's tobacco products of the applicable type exceeds the de minimis level.

(d) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (b)(2), (b)(3), (c)(2), and (c)(3) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year; exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(e) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(f) BUSINESS EXPENSE DEDUCTION.—In order to maximize the financial deterrent effect of the assessments and surcharges established in this section, any such payment shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(g) PROCEDURES.—In assessing price increase assessments and enforcing other measures under this section, the Secretary shall have in place procedures to take into account the effect that the margin of error of the annual performance survey may have on the amounts assessed to or measures required of such manufacturers.

(h) OTHER PRODUCTS.—The Secretary shall promulgate regulations establishing performance objectives for the reduction of the use by children of other products made or derived from tobacco and intended for human consumption if significant percentages of children use or begin to use such products and the inclusion of such products as types of tobacco products under this subtitle would help protect the public health. Such regulations shall contain provisions, consistent with the provisions in this subtitle applicable to cigarettes and smokeless tobacco, for the application of assessments and surcharges to achieve reductions in the percentage of children who use such products.

(i) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(j) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 206. DEFINITIONS.

In this subtitle:

(1) CHILDREN.—The term ''children'' means individuals who are 12 years of age or older and under the age of 18.

(2) CIGARETTE MANUFACTURERS.—The term ''cigarette manufacturers'' means manufacturers of cigarettes sold in the United States.

(3) EXISTING MANUFACTURER.—The term ''existing manufacturer'' means a manufacturer which manufactured a tobacco product on or before the date of the enactment of this title.

(4) NEW MANUFACTURER.—The term ''new manufacturer'' means a manufacturer which begins to manufacture a type of tobacco product after the date of the enactment of this title.

(5) NON-ATTAINMENT PERCENTAGE.—The term ''non-attainment percentage'' means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is less than the baseline level, by subtracting—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is less than the baseline level, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of the applicable type of tobacco product is greater than the baseline level, adding—

(i) the percentage by which the percent incidence of underage use of the applicable type of tobacco product in that year is greater than the baseline level; and

(ii) the required percentage reduction applicable in that year.

(6) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term ''smokeless tobacco product manufacturers'' means manufacturers of smokeless tobacco products sold in the United States.

This section takes effect one day after date of enactment.

CHAFEE AMENDMENT NO. 2439

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 216, between lines 18 and 19, insert the following:

SEC. 508. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 of title 49, United States Code, is amended to read as follows:

"§ 41706. Prohibitions against smoking on scheduled flights

''(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

''(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

''(c) LIMITATION ON APPLICABILITY.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft.

''(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

THOMAS (AND ENZI) AMENDMENT NO. 2440

(Ordered to lie on the table.)

Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. PROHIBITION ON RETURN OF VETERANS MEMORIAL OBJECTS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) PROHIBITION.—Notwithstanding any other provision of law, the President may not transfer a veterans memorial object to a foreign country or entity controlled by a foreign government, or otherwise transfer or convey such object to a person or entity for purposes of the ultimate transfer or conveyance of such object to a foreign country or entity controlled by a foreign government, unless specifically authorized by law.

(b) DEFINITIONS.—In this section:

(1) ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.—The term ''entity controlled by a foreign government'' has the meaning given that term in section 2536(c)(1) of title 10, United States Code.

(2) VETERANS MEMORIAL OBJECT.—The term ''veterans memorial object'' means any object, including a physical structure or portion thereof, that—

(A) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

(B) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the United States Armed Forces; and

(C) was brought to the United States from abroad as a memorial of combat abroad.

NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

CRAIG AMENDMENT NO. 2441

(Ordered to lie on the table.)

Mr. CRAIG submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

On page 210, line 19, insert the following:

SEC. 456—Black Lung Allocation Account.—There is hereby established within the trust fund a separate account, to be known as the Black Lung Allocation Account, which shall be eligible to receive funds made available under Sec. 401(a) to make transfers to the Black Lung Disability Trust Fund.

KERREY AMENDMENT NO. 2442

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, S. 1415, supra; as follows:

Title IV is amended by adding at the end the following:

SEC. 4___. SMOKING CESSATION AND PREVENTION BLOCK GRANT.

(a) APPLICATION OF PROVISIONS.—Notwithstanding any other provision of this Act—

(1) paragraphs (3) and (4) of section 451(a) and part D of title XIX of the Public Health Service Act, as added by title II of this Act, shall be null and void and shall not be given any effect; and

(2) section 451(b)(2)(A) shall be applied as if ''a smoking cessation block grant made under section 4___'' were substituted for ''part D of title XIX of the Public Health Service Act, as added by title II of this Act''.

(b) FUNDING OF GRANTS.—The sum of the amounts made available under paragraphs (1) and (2) of section 451(a) and subsection (b)(2)(A) of that section (after application of subsection (a)(2) of this section) for a fiscal year shall be used to make grants under this section.

(c) STATE PLAN.—

(1) IN GENERAL.—In order to receive a grant under this section for a fiscal year, a State shall submit, in such form and such manner as the Secretary shall require, a plan that sets forth how the State intends to use the funds provided under the grant for smoking cessation and prevention.

(2) COMMUNITY INVOLVEMENT.—The State shall consult with appropriate representatives of local communities in the development of the plan submitted under paragraph (1).

(d) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraphs (3) and (4), each State with an approved plan under subsection (c) shall receive a payment for a fiscal year equal to the amount determined under paragraph (2).

(2) AMOUNT DETERMINED.—

(A) IN GENERAL.—The amount determined under this paragraph for a State for a fiscal year is the amount equal to average of the following 2 ratios:

(i) The ratio of—

(I) the total expenditures by the State under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the fiscal years 1992 through 1996 that are attributable to the treatment of individuals with tobacco-related illnesses or conditions for the fiscal year involved; to

(II) the total of such expenditures for all States for such fiscal years.

(ii) The ratio of—

(I) the total expenditures incurred in the State for such fiscal years in providing directly, or reimbursing others for the provision of, treatment of individuals with tobacco-related illnesses or conditions that are not taken into account under clause (i); to

(II) the total of such expenditures for all States for such fiscal years.

(B) DETERMINATION OF EXPENDITURES.—The method used to determine the expenditures attributable to the treatment of individuals with tobacco-related illnesses or conditions for purposes of subparagraph (A) shall be the method used by the Attorneys General Allocation Subcommittee in its report dated September 16, 1997.

(3) MINIMUM PAYMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in no case shall a State receive a payment under this subsection that is less than—

(i) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.1 percent of such total amount but does not exceed 0.2 percent of such amount, 0.2 percent;

(ii) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.2 percent of such total amount but does not exceed 0.3 percent of such amount, 0.3 percent;

(iii) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.3 percent of such total amount but does not exceed 0.4 percent of such amount, 0.4 percent; and

(iv) in the case of a State that would otherwise receive under paragraph (2) an amount that is equal to or exceeds 0.4 percent of such total amount but does not exceed 0.5 percent of such amount, 0.5 percent.

(B) NONAPPLICATION TO TERRITORIES.—Subparagraph (A) shall not apply to Puerto Rico, Guam, the United States Virgin Islands, American Samoa, or the Northern Mariana Islands.

(4) MINIMUM PAYMENTS TO SETTLEMENT STATES.—In no case shall the States of Florida, Minnesota, Mississippi, and Texas, receive payments under this subsection for a fiscal year that are less than the following:

(A) In the case of Florida, 5.5 percent of the total amount made available under subsection (b) for payments to States under this section.

(B) In the case of Minnesota, 2.55 percent of such amount.

(C) In the case of Mississippi, 1.7 percent of such amount.

(D) In the case of Texas, 7.25 percent of such amount.

(5) REALLOCATION OF AMOUNTS FOR OTHER STATES.—If the amount determined under paragraphs (3) and (4) exceeds the amount otherwise determined under paragraph (2) for 1 or more States for any fiscal year, the amount of the payments under paragraph (2) to all States to which paragraphs (3) and (4) do not apply shall be ratably reduced by the aggregate amount of such excess.

(e) USE OF FUNDS.—A State may use funds received under a grant made under this section for any purpose, including any purpose described in section 452(b)(2), so long as the State demonstrates in the State plan required under subsection (c) that the use of funds for such purpose is consistent with promoting and achieving smoking cessation and prevention.

(f) ANNUAL REPORTS.—Each State that receives funds under this section shall report

annually to the Secretary, in such manner and such form as the Secretary shall require, on the use of the funds received under this section and overall smoking trends within their State.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2443

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. DURBIN, Mr. D'AMATO, and Ms. MOSELEY-BRAUN) submitted an amendment intended to be proposed by them to the bill, S. 1415, supra; as follows:

On page 193, between lines 16 and 17, insert the following:

(4) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to receive amounts under this subsection, a State shall, through agreements entered into with local government entities described in subparagraph (B), provide such entities with a portion of the amounts received by the State under this subsection as consideration for the resolution or termination of civil actions under title XIV.

(B) LOCAL GOVERNMENT ENTITIES.—A local government entity described in this subparagraph is a city or county that commenced a health or smoking-related civil action against one or more participating tobacco product manufacturers, distributors, or retailers on or before June 20, 1997 (including actions by the City and County of San Francisco and related cities and counties, Los Angeles County, New York City, Erie County, Cook County, and the City of Birmingham).

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 4, 1998, at 9:30 A.M. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive GAO's preliminary comments on its review of the Administration's Climate Change Proposal and to hear the Administration's response to GAO's comments.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Kristine Svinicki at (202) 224–7933.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GRAIG. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will be held in Grand Junction, Colorado at the Avalon Theater on Saturday, June 6, 1998, at 8:30 a.m. The Avalon Theater is located at 645 Main Street, Grand Junction, Colorado.

The purpose of this hearing is to receive testimony on the Bureau of Land Management's ongoing wilderness review efforts within the State of Colorado.

The Subcommittee will invite witnesses representing a cross-section of views and organizations to testify at the hearing. Others who wish to testify may, as time permits, make a brief statement of no more than 2 minutes. Those wishing to testify should contact Senator ALLARD's office (202) 224–5941 or Kevin Studer of Senator CAMPBELL's office (202) 224–5852 or the Committee on Energy and Natural Resources in Washington, DC at (202) 224–6170. The deadline for signing up to testify is Friday, May 29, 1998. Every attempt will be made to accommodate as many witnesses as possible, while ensuring that all views are represented.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mike Menge at (202) 224–6170.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, PRODUCTION AND REGULATION

Mr. NICKLES. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Research, Development, Production and Regulation of the Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 11, 1998 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to conduct oversight on the federal oil valuation regulations of the Minerals Management Service.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Michael A. Poling at (202) 224–8276.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 11, 1998 at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to receive testimony on the Recreational Fee Demonstration Program.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Kelly Johnson at (202) 224–3329.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in Executive session during the session of the Senate on Thursday, May 21, 1998 at 2:30 p.m. to consider possible amendments relating to Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND THE COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Foreign Relations be granted permission to meet during the session of the Senate on Thursday, May 21, for purposes of conducting a joint committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the subject of Iraq: Are Sanctions Collapsing?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a business meeting to consider pending business Thursday, May 21, 9:30 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS AND THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations and the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 21, 1998, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 21, 1998 at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 1998 at 1 p.m. to conduct an oversight hearing on the Unmet Health Care Needs in Indian Country. The Committee will meet in room 106 the Dirksen Senate Office Building.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 21, 1998, at 10 a.m., in room 226, of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on ''Genetic Information and Health Care'' during the session of the Senate on Thursday, May 21, 1998, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 21, 1998, at 11 a.m. to hold a hearing on the nomination of Joan A. Dempsey to be Deputy Director of Central Intelligence for Community Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT PRODUCTION, AND REGULATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research, Development, Production, and Regulation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 21, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 1141, the Biodiesel Energy Development Act of 1997 and S. 1418, the Methane Hydrate Research and Development Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, May 21, 1998, at 10 a.m. for a hearing on ''Benefits of Commercial Space Launch for Foreign Satellite and ICBM Programs''.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING VETERANS ON MEMORIAL DAY

● Mr. BINGAMAN. Mr. President, this weekend, Americans from all walks of life turn their thoughts to those men and women who died in the service of our nation. From the early heroes of the Revolutionary War through those who fought and died in the Persian Gulf, about 1.1 million Americans have sacrificed their lives to preserve our precious freedom and to meet our commitments to allies around the globe. We are privileged to enjoy the benefits of the ultimate sacrifice that those men and women in our Armed Forces made on our behalf. We take this day to honor their memory and offer our deepest gratitude.

I remember when I was a young man, hearing those stirring words of President John Kennedy when he said, ''Ask not what your country can do for you, but what you can do for your country.'' Those words rang loud and clear in the hearts and minds of my generation. They captured our spirit and renewed our commitment to serve America.

Perhaps the noblest heroes of my generation were those who, in the midst of the great debate over Vietnam, stepped forward to serve their country and paid the ultimate sacrifice. Those sacrifices were borne from the same spirit that John Kennedy urged upon all of us in 1961. Regardless of political persuasions, none could argue that those who died in Southeast Asia were not among America's finest men and women. We salute them today, and will always remember and be grateful for their patriotism and sacrifice.

Those brave men and women who died in Vietnam, however, were not unique in American history. The legacy of courage, sacrifice, and patriotism has a long history in this country. During this century some 33,651 Americans lost their lives in Korea, 417,316 died during World War II, and 117,708 perished during the First World War. Almost 500,000 Americans—both North and South—lost their lives fighting for the America they believed in during the Civil War. We owe each and every one of those veterans and their families a debt of gratitude.

I hope that every New Mexican and every American will take time this Memorial Day to find a quiet moment to consider the enormity of what our fallen friends and families have bequeathed us. This nation is blessed beyond all others—-providing us with a political system that guarantees each of us life, liberty, and the pursuit of happiness. We are free to speak our minds. We are free to practice our faiths. We are free to travel this great land and be with whomever we choose. These precious gifts of freedom have not come free. They have endured through the blood of American heroes and heroines. We pause this day to say ''thank you.'' We won't forget.●

TRIBUTE TO MISSOURI BROADCASTERS

● Mr. BOND. Mr. President, I rise to pay tribute to the Missouri radio and television stations for their contributions to public service. This year, in a survey conducted for the Missouri Broadcasting Association by Public Opinion Strategies, it was determined that Missouri Broadcasters aired $44 million worth of public service announcements (PSA) in 1997. This amount was fourth best among the thirty-eight states who participated.

The survey reported that Missouri television stations air an average of 175 PSAs each week and radio stations air an average of seventy-five per week. That comes to a total of 18,775 PSAs weekly. Every television station and 94 percent of radio stations in Missouri participated in fundraising efforts for charitable organizations last year. Those organizations received a total of $17.3 million in charitable donations because of the on-air PSAs made by Missouri's broadcasters.

The most frequent PSAs dealt with drug and alcohol prevention and abuse. Other common PSAs covered anti-crime efforts, hunger, poverty, the homeless, anti-violence and AIDS prevention. No other industry can make the impact that broadcasters can make. I am proud to say that the Missouri broadcasters are some of the best.

I commend the Missouri broadcasters for their untiring dedication in helping charitable causes in Missouri. It does make a difference and people are benefitting from these broadcasters' efforts. I join the many who thank the Missouri broadcasters for their support throughout the year. Whether it be charities, weather warnings or public health announcements, I know the Missouri broadcasters will be on-air to lead the cause.●

HONORING THE CONNECTICUT EDUCATION ASSOCIATION ON ITS 150TH ANNIVERSARY

● Mr. DODD. Mr. President, there are many things about my home state of Connecticut that are a source of great pride to its people, but few are greater than the overall quality of our state's public schools. Connecticut students are performing at the highest levels in the nation on federally sponsored standardized tests. Three out of four Connecticut public school students go on to pursue higher education. And our public school students have outperformed students from private and parochial schools in our state.

Many people have contributed to the quality of our public schools, in particular our parents and students. But the backbone of Connecticut's public schools is its teachers. In my view, they are the finest in the country, and there are numbers that back me up. More than 80 percent of Connecticut's public school teachers have advanced degrees, the highest percentage in the country. They are among the nation's most experienced teachers, with the average teacher having taught for more than 15 years. And the greatest testament to the quality of their teaching is the accomplishments of Connecticut's students.

One organization, more than any other, has worked to ensure that Connecticut's children are taught by the finest teachers in the country, and that organization is the Connecticut Education Association (CEA).

The CEA is a membership organization that represents nearly 30,000 elementary and secondary public school teachers in our state. Through the years, the CEA has consistently promoted the value of public education, encouraged public awareness of the resources needed to provide quality education, and emphasized the importance of the teacher in the education process.

This is a significant year for the CEA: it celebrates its 150th anniversary. Over the past century and a half, the Association has been a consistent champion of children, teachers, and public education, and today, its voice on education issues is as strong as ever. There is no job more important than teaching our children, and I would like to thank and congratulate the Connecticut Education Association for a job well done. I wish them all the best as they celebrate this anniversary and continued success in the future.●

FINANCIAL SERVICES ACT OF 1998

● Mr. D'AMATO. Mr. President, today Senator SARBANES, the distinguished Ranking Member on the Senate Banking Committee, and I have announced that we will hold hearings on June 17th to begin the process of Senate consideration of the Financial Services Act of 1998, recently passed by the House of Representatives.

America is the financial leader of the world, and New York is the capital. But we cannot remain complacent. We must recognize that the world is changing and global competition is tougher than ever. We must meet this change head on. If we are to remain competitive and maintain our preeminent position in the marketplace, we must provide a climate that allows our financial system to be as efficient, and competitive as possible.

Mr. President, simply put, financial modernization will provide consumers with more choices. Financial institutions will be able to provide even more diverse services. Insurance companies, securities firms, brokerage houses, local banks and other institutions will be allowed to compete fairly with one another. But we must remember that while expanding the freedom of every American to make their financial choices, we must not sacrifice the safety and soundness or place the taxpayers at risk.

The issues surrounding financial modernization have in the past proven to contentious. Our hearing next month will allow an open and frank dialogue with the Administration, industry groups and consumers.●

TRIBUTE TO WILLA CATHER

● Mr. KERREY. Mr. President, writer Willa Cather fashioned from her experiences uncommon stories of the character of Nebraska's people and landscapes. It is my pleasure to pay tribute to Cather because, like many Nebraskans, her writing continues to inspire me.

This year, we celebrate three major anniversaries in Cather's life. Seventy-five years ago, Cather won the Pulitzer Prize for ''One of Ours.'' One of her best known novels, ''My Antonia,'' will have its 80th anniversary on September 21st. Finally, December 7th marks the 125th anniversary of her birth.

Cather's writings illustrate a Nebraska of stark landscapes, epic frontiers, and mysterious grandeur. Her characters are often placed in a Nebraska panorama to which Cather gave breathtaking expression. Shortly after moving from the east to Nebraska at the age of nine, Cather realized that that shaggy grass country had gripped me with a passion I have never been able to shake. It has been the happiness and the curse of my life.''

For Cather in ''My Antonia,'' Nebraska is raw and vast, the material out of which countries are made. . . naked as the back of your hand.'' Out of the passion she felt for Nebraska's materials, Cather wrote with unparalleled sensitivity about the soil, trees, and wildflowers of the landscape. In The ''Song of the Lark,'' the cottonwoods are the light-reflecting, wind-loving trees of the desert, whose roots are always seeking water and whose leaves are always talking about it, making the sound of rain.''

The inhabitants of the land are connected to and determined by this landscape. Thus, in many of Cather's novels, the character is a pioneer, whether literally or as artist, one breaking new ground, finding his or her own path, creating his or her own landscape. In the hands of Cather's sparse and evocative prose, questions of the pioneering self shaped by experience and tested by difficulty indicate Cather's commitment through her characters to integrity.

Readers continue to feel the special relationship between the wonder of Nebraska and the dignity of its people through Cather's well known novels ''O Pioneers, My Antonia, One Of Ours,'' and ''Death Comes for the Archbishop,'' as well as her poetry and other stories. I invite you to join me in honoring Willa Cather on the 75th anniversary of her Pulitzer Prize, the 80th anniversary of ''My Antonia,'' and in memory of her 125th birthday.

In ''The Wild Land,'' Cather writes, The history of every country begins in the heart of a man or a woman.'' Thanks to Cather's artistry, we continue to be moved by the written recordings of Nebraska's history.●

SPACE DAY

● Mr. FRIST. Mr. President, I rise today in honor of ''Space Day'' to recognize the accomplishments and achievements we have made in the United States over the last quarter of the century in space-related activities.

The space industry has rapidly evolved from public sector dominance to private sector innovation. Throughout the industry's infancy, the Department of Defense's military operations and the National Aeronautics and Space Administration's activities dominated the emerging space frontier. These DOD and NASA initiatives served as catalysts in the commercialization of space. Many advances in technology have resulted, leading to new jobs, industries, and exciting new opportunities for uses of space that we cannot yet imagine.

The growth within the space industry, and the opportunities created have been dramatic. The space industry is a major contributor to our economy, and has spurred technological advances over the past 20 plus years. In 1996, total industry revenues from the commercial sector exceeded those from the government sector for the first time ever. Revenues from the space industry are currently running at approximately $85 billion annually, and are projected to increase to approximately $121 billion by the year 2000.

Although participation in space initiatives has been and continues to be capital intensive, this arena is fertile ground for smaller entrepreneurs and innovative startups. One of the key factors has been the huge market for satellite launches. The demand for telecommunications services and the distribution of television and cable programming caused the satellite capacity to expand. This industry is continuously evolving to include a host of new satellite-based services including worldwide mobile telephony, and infrastructure for the television industry. Through continued Federal investment in space ventures, we can also see other emerging applications such as distance learning, telemedicine, and the exploration of microgravity conditions of materials in a clean space environment on the International Space Station.

Transferrable technologies—''spin-offs''—from government space initiatives are now being used in various commercial applications. For example, as a result of tests aimed at improving the performance of NASA's Space Shuttle, the Boeing Company was able to hone its design of the Boeing 777 aircraft at NASA's facilities. Several NASA innovations were instrumental in the development of that aircraft, including wind tunnel tests to confirm the structural integrity, use of lightweight composite structures for increased fuel efficiency and range, and the use of computer modeling to conduct advanced computer-based aerodynamic analysis. The is the largest twin engine jet manufactured today. Other such spinoffs include fire retardant materials used in space flight suits now being used for fire fighters and automotive insulation for race car drivers, and various sensors that monitor radioactive materials and environmental control, to cite just a few.

The benefits to the taxpayer through the development of new industries, new products, new services, and improved quality of life represents a substantial return on the national investment in space-related initiatives.

Today, on Space Day, we recognize and honor those visionaries, entrepreneurs, and leaders who have made great accomplishments in the advancement of technology through space-related endeavors.●

TRIBUTE TO THE UNIVERSITY OF GEORGIA SCHOOL OF LAW AND GEORGIA GOV. CARL SANDERS

Mr. CLELAND. Mr. President, I rise today to recognize The University of Georgia School of Law's many years of accomplishments and achievements, and to honor former Governor of Georgia Carl Sanders, who graduated from UGA's Law School 50 years ago.

I would like to applaud the commitment and hard work of the entire law school community: the faculty, staff, students, and alumni. The reputation of the school continues to grow and prosper each year.

Over the years UGA has produced thousands of successful lawyers, including many leaders and policy makers. Since opening its doors in 1785, the law school has graduated five U.S. Senators, 30 Members of Congress, nine governors, including Gov. Carl Sanders, eight Speakers of the Georgia House of Representatives and 54 Appellate Judges.

I recently had the opportunity to deliver the commencement speech to the 1998 graduating class of The University of Georgia School of Law and was reminded of the impact and value of the law.

In order for the law to be respected, and for us to be respected as authorities on the law—whether as lawyers, law enforcement or lawmakers—there must be a sense of morality behind the law. It is a basic historical fact that people will not obey unjust law.

As I look around Washington I see many reminders of the importance of the law. The inscription on the Supreme Court building is: ''Equal justice under law.'' There is an inscription over the 10th Street entrance of the U.S. Department of Justice Building in Washington which reads: ''Justice in the life and conduct of the State is possible only as first it resides in the hearts and souls of its citizens.'' Justice comes before the law. All of us who touch the law are bound by this justice and honor.

With justice and morality behind the law, we strengthen it. Without it, the law is weakened. If all of us who touch the law do not abide by these terms, the law loses its credibility. Ultimately, those of us who touch the law have a responsibility to lead others to respect it.

The men and women who have graduated from The University of Georgia with law degrees over the past two hundred years have and will continue to strengthen and uphold the law of this nation. I ask my colleagues in the Senate today to join me in saluting and congratulating The University of Georgia School of Law for instructing and graduating men and women who have shaped our nation's history during the last two centuries, including Gov. Carl Sanders and other Georgia lawmakers.

PROVIDING FOR THE CONTINUATION OF SERVICE AND EXTENSION OF TERM OF SERVICE OF MEMBERS OF THE DISTRICT OF COLUMBIA FINANCE CONTROL AUTHORITY

● Mr. FAIRCLOTH. Mr. President, I ask that a bill that I intend to introduce be printed in the RECORD. I wish to alert my colleagues that I hope the Senate will be able to act on this legislation prior to the Memorial Day recess.

The text of the bill follows:

S. —

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

SECTION 1. CONTINUATION OF SERVICE AND EXTENSION OF THE TERM OF SERVICE OF MEMBERS OF THE DISTRICT OF COLUMBIA FINANCIAL CONTROL AUTHORITY.

Section 101(b)(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8; 109 Stat. 100) is amended by—

(1) striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—The term of each member of the Authority appointed initially under this Act shall expire on September 1, 1998. Except as provided in subparagraph (B), each Member of the Authority appointed after the initial appointments shall serve for 3 years.''; and

(2) adding at the end the following:

''(D) CONTINUATION OF SERVICE UNTIL SUCCESSOR APPOINTED.—Upon the expiration of a term of office, a member of the Authority may continue to serve until a successor has been appointed.''.●

TRIBUTE TO THOMAS P. MONDANI

● Mr. DODD. Mr. President, I rise today to pay tribute to one of the greatest leaders and supporters of public education that the State of Connecticut has ever known: Thomas P. Mondani. This past March, the State of Connecticut was saddened by his passing at the age of 63.

Tom Mondani served as executive director of the Connecticut Education Association (CEA), the State's largest teacher organization, for longer than any individual in the organization's 150-year history.

Mr. Mondani began his career in public education as a social studies and English teacher in Moodus, CT in 1959. He joined the CEA staff in 1963 as a research consultant and was promoted to director of research 2 years later. As director of research, he compiled and published numerous studies of statistical data related to educational expenditures in Connecticut.

When Tom Mondani was appointed executive director in 1971, his work in school finance made him a recognized authority on research and education legislation in the State.

Mr. Mondani also served in Connecticut's State legislature. In 1965, he was elected to the first of his two terms as a State representative, and in 1970, he moved from the House to the State Senate. As a State legislator, Tom Mondani worked diligently on education issues, and he authored legislation that provided maintenance of all accumulated tenure and sick leave rights for teachers who had been incorporated into recently formed regional school districts.

Tom Mondani left public office in 1971 when he accepted his appointment as CEA executive director, and he often utilized the political skills that he developed in the General Assembly during his 22-year tenure. He worked with teachers as well as political leaders to secure the passage of many laws to help Connecticut's teachers, including improvements in teacher freedom of residency and the establishment of binding arbitration for teacher-board of education negotiations. During his tenure from 1972 to 1994, he helped develop major advancements for students and teachers in the areas of teacher standards, public school finance, and collective bargaining.

Most recently, Tom Mondani served as vice chair of the State Board of Governors for Higher Education.

In 1994, the CEA Board of Directors voted unanimously to recognize Tom Mondani's contributions by bestowing him with the organization's most prestigious award: the CEA Friend of Education Award. And not only did CEA present him with the award, but they also renamed the award in his honor.

Upon his passing, countless people, including teachers, parents, and former Governors spoke out in praise of this remarkable man. They spoke of his commitment to the children of Connecticut. They remembered his leadership, wisdom, integrity, intellect and fairness. They said that he elevated the thinking in the State about children, teachers, and public education.

I would like to join the chorus of voices singing the praises of this honorable man. I knew Tom Mondani, and I saw first-hand his commitment and dedication to helping others and improving the quality of our public schools. The people of Connecticut will miss him dearly.●

TRIBUTE TO GENE E. HUCKSTEP

● Mr. BOND. Mr. President, a very popular Sunday night television show, entitled, ''Touched by an Angel'' focuses on stories where people's lives have been affected in a positive way by angels who are sent from Heaven to serve among us.

I rise today to pay tribute and honor a very dear friend who might just qualify as one of those angels that serves to minister to his fellow man.

This past week, a former Presiding Commissioner of Cape Girardeau County, Gene Huckstep, completed his successful service on Earth just before reaching his 70th birthday.

Gene Huckstep was widely loved and universally respected, but he was at first appearance not one you would figure to be an angel. Gene was a powerfully-built man who could be as rough as he needed to be. He laughingly told stories about his educational career, which at times bordered on juvenile delinquency. He was sent in the military to shape up.

Then, in a career fueled with brushes with death, by his calculation he used up about 39 lives. In the Army as a tank driver he once was badly burned when the tank caught fire when it was being refueled, and another time when his tank went into water 25 feet deep he barely escaped drowning.

After his service career he returned to his native Cape Girardeau and saw death and destruction first-hand when the May 21, 1949 tornado struck. After taking a baby from the hands of a dying man impaled on a two-by-four, he searched for other survivors and fell into a cellar fracturing three vertebrae and leaving him in a body cast from hip to neck.

His outstanding service to his fellow man began in 1965 when his family-owned body shop bought a gas-powered saw which led law enforcement agencies to begin to call on Gene to rescue victims in serious car accidents.

He faced many life and death situations cutting people out of burning automobiles to save their lives; in some cases losing the battle to flames before he could extricate them.

One time he was trying to retrieve a drowning victim when friends on the bank saw swarms of cottonmouth water moccasins coming toward him. They pulled him out with a grappling hook that saved him from potentially fatal snake bites.

Over his career in 22 years he personally extricated victims from 1,976 serious car accidents. For these victims and their families, Gene Huckstep truly was an angel.

His service to mankind continued well beyond his extrication business. In 1978 he was elected Presiding Commissioner of Cape Girardeau County with strong bipartisan support and led the way on many improvements in the county including a new jail, a veterans home, and many other worthwhile benefits.

In the private sector he led the drive for a new emergency room at St. Francis Hospital, and he served as Chairman of the Board of Cameron Mutual Insurance Company.

His specific charitable contributions are far too many to recount, but it is safe to say he left his community a far better place because he touched so many things for the good of the community and his fellow man.

As one who was blessed by his friendship as well as his political support, I shall always remember his generosity, his good humor, and his genuine concern for others. Our thoughts and prayers are with his lovely wife Betty, his family, and his many close friends. I shall always treasure his memory and the fact that he was spared from dangerous situations so many times to carry on his work among the people of southeast Missouri.●

TULARE, SOUTH DAKOTA HIGH SCHOOL BAND TRAVELS TO CANADA

● Mr. JOHNSON. Mr. President, I want to take this opportunity today to recognize the Tulare, South Dakota High School concert band for their up-coming trip to Canada. The Tulare band will travel to Winkler, Manitoba, Canada on June 2, 1998 to perform concerts with the Canadian Garden Valley Collegiate School.

I want to express my appreciation to Paul Moen, band director and Karl Redekop, principal from Garden Valley Collegiate School. These two individuals have worked very hard to plan and organize this exciting trip. I also want to thank Tulare's band director, Sam Glantzow, for his countless hours of dedicated work to see that this great learning experience for the band members from Tulare High School is a success.

Mr. President, the band members from both schools will gain valuable knowledge about new cultures and will form international friendships. I am sure this will be an experience everyone will remember for a lifetime.●

RECOGNIZING THE 351st MP COMPANY FOR ITS ROLE IN BOSNIA-HEREZOGOVENIA

● Mr. MACK. Mr. President, I would like to take a few minutes to welcome home the 351st MP Company who recently returned from Bosnia on April 3, 1998. The President sent our service men and women to Bosnia in an effort to bring peace to the region. I think it is appropriate to recognize the important and extensive contributions of our Reserve Forces without whom this extended mission probably would not have been possible.

The 351st, consisting of 182 personnel, primarily from the City of Ocala, FL, was mobilized on August 19, 1997 and ordered to Bosnia under the command of Captain Keith Holmes. Prior to their departure, the unit underwent extensive training at both Ft. Benning, GA and Ft. Polk, LA, before being sent to Bosnia-Herzogovina. In Bosnia, the unit was split between two base camps, Eagle Base and Bedrock, located in Tuzia valley.

While in Bosnia, the 351st participated in operation Joint Guard. The operation's major focus was to provide a stable environment for implementation of the General Framework Agreement for Peace (GFAP). The 351st conducted numerous peacekeeping missions, which included: area presence patrols, weapons storage site inspections, quick Reaction Force duties on Eagle Base, and protective services for numerous senior U.S. Army officers, culminating with the President of the United States during his visit to Bosnia.

In leaving their families and their jobs, the men and women of the 351st have endured personal sacrifice and demonstrated their deep sense of duty to their country. It is only through the recognition and use of reservists as an integral part of our total force structure that the United States has been able to demonstrate its commitment to peace and security in Bosnia. And, through this commitment, the United States has made possible the promise of safety and hope of reconciliation to the people of this troubled region.

In its role, the 351st has served as a shining example of the indispensable role of Reservists in our Armed Forces. Reservists who answered the call of duty when their country asked them to serve have my deepest respect and gratitude. Accordingly, it gives me great pleasure to welcome home the 351st MP Company and thank them for a job well done.●

TRIBUTE TO DOUGLAS C. HOLBROOK

● Mr. LEVIN. Mr. President, I rise today to pay tribute to Douglas C. Holbrook, who will be retiring from his position as Secretary-Treasurer of the American Postal Workers Union in November, 1998. Mr. Holbrook is being recognized for his service to the men and women of the American Postal Workers Union at their 14th Biennial National Convention, which will take place in my home town of Detroit, Michigan, from July 20–24, 1998.

Douglas Holbrook was born and attended high school in Virginia, and moved to Michigan to study labor relations and administration at Wayne State University in Detroit. While in Detroit, Mr. Holbrook began his career with the U.S. Postal Service as a part-time clerk. His abilities were quickly recognized by his fellow employees, and he began his distinguished career in labor relations with the Detroit District Area Local. After serving as Trustee, Editor of the Detroit Postal Worker and Vice President, he was elected President of the District Local in 1966. Mr. Holbrook served in this position until being chosen to fill the unexpired term of his predecessor as Secretary-Treasurer of the American Postal Workers Union.

The American Postal Workers Union is the largest union of postal workers in the world. Under the steady and determined leadership of Mr. Holbrook, APWU has truly been a powerful force for workers rights, fair pay and a safe

workplace. I know that he will be missed by his colleagues and by postal workers from every corner of the country.

Mr. President, I know my colleagues join me in expressing appreciation to Douglas Holbrook for his distinguished service to our nation's postal workers, and in wishing him well in his upcoming retirement.●

CATHERINE KALINOWSKI, COLORADO STATE CHAMPION, THE CITIZENS FLAG ALLIANCE ESSAY CONTEST

● Mr. ALLARD. Mr. President, I rise today to pay tribute to Catherine Kalinowski who has been named the Colorado State champion in The Citizens Flag Alliance Essay Contest. This young lady was charged with the task of writing an essay on the theme, ''The American Flag Protection Amendment: A Right of the People . . . the Right Thing to Do,'' and did a fine job of making the case for protecting the greatest of our national symbols.

As many in this Chamber know, I am a strong supporter of a constitutional amendment to prohibit the desecration of our flag. The American flag is a great symbol of our Nation, and it should be regarded with the highest of honors. It is a part of our national identity, representing the hopes, dreams, and honor of our country.

As I read this essay, one passage struck me as particularly insightful. I believe that Catherine sums up our beliefs best when she writes,

> The visage of the nation's flag has altered as it has aged, with modifications in the dimensions, design, and number of stars; yet changing appearance has not impeded the flag from becoming the principal image of American ideals.

I would like to submit the full text of Ms. Kalinowski's essay for inclusion in the CONGRESSIONAL RECORD at this time.

Mr. President, Catherine Kalinowski represents the best and brightest that America has to offer. Young people like her are our future, a future that is brighter because of her commitment and resolve. On behalf of all Coloradans, I would like to congratulate Catherine and wish her the best of luck in the upcoming national competition.

The essay follows:

THE AMERICAN FLAG PROTECTION AMENDMENT: A RIGHT OF THE PEOPLE . . . THE RIGHT THING TO DO

(By Catherine M. Kalinowski)

''Stars and Stripes Forever,'' a song by John Philip Sousa proclaims the American flag as ''the flag of the free'' and ''the Banner of the Right.'' Sousa declares ''May it wave as our standard forever,'' but may it? The flag of the United States of America is so loosely protected by state and federal laws that the molestation of the flag has become acceptable. America's flag has gone from being a symbol of freedom and righteousness to one of commercialism and insurrection.

As the Colonists fought for the rule of the land they considered their own, creation of a separate identity from England became important. Before a fleet of the Continental Congress set out to intercept British supply boats coming into Boston, Col. Joseph Reed wrote to his commander, General George Washington. ''Please to fix upon Some particular Colour for a Flag—& a Signal, by which our vessels may know one another.'' Col. Reed's letter of request was lamentably late, forcing the ships to sail under their old flags. The flag issue was settled when on June 14, 1777, Congress, ''Resolved, That the flag of the thirteen United States be thirteen stripes alternate red and white; that the union be thirteen stars, white in a blue field, representing a new constellation.'' And by November 1, 1777, Stars and Stripes were seen flying from a US ship under the command of Continental Navy Captain John Paul Jones. The flag on Jones' vessel was the first to represent the United States in a foreign port and to receive recognition as representing America as a nation, being given a nine-gun salute by the French at Quiberon Bay. Though originally needed for the practical objective of identification at sea, the creation of Old Glory became significant to the establishment of the nation.

The visage of the nation's flag has altered as it has aged, with modifications in the dimensions, design, and number of stars; yet changing appearance has not impeded the flag from becoming the principal image of American ideals. Life, liberty, and the pursuit of happiness is embodied in every stitch of the US flag. As United States Senator Paul Fannin wrote, ''Those who tear down the flag reveal their hatred for everything good and great in our country, because the flag is a symbol of what we want America to be—a land of justice, opportunity, equality and compassion.'' New York Mayor John V. Lindsay viewed the flag as having individual stars and stripes to represent the individuality of the country's citizens; however, because the same flag flies over all Americans, the flag ''binds us together in the common enterprise we call America.'' A representation of so much positive in American society, a representation of the United States itself, it is unfortunate that the flag is becoming insignificant.

During the beginning of this century, most states enacted laws to discourage flag desecration, outlawing placing any marks or pictures of the flag, forbade any flag usage for commercial purposes, and banned any physical destruction of flags or any'' act or words' that publicly cast ''contempt'' on the flag. These standards have been obscured to the point of oblivion. The flag is pictured on everything from apparel and political paraphernalia to automobiles and boxes of cereal. Depicted on every corner, the flag no longer receives the veneration due to it. Penalization for defiling the flag through acts such as flag burning was practiced until what has been called the 1989–1990 Flag Burning Controversy. Gregory Lee Johnson was arrested in 1984 for burning a flag in Dallas, Texas. Under Texas' Venerated Objects law, Johnson had committed a crime and was sentenced to the maximum penalty of one year in prison and a fine of $2,000. An appeals court reversed Johnson's conviction by a 5–4 vote on April 20, 1988. Dallas County, in response to the Texas Court of Criminal Appeals, requested the ruling of the U.S. Supreme Court. The decision of the Supreme Court upheld through another 5–4 vote the conclusion of the Texas court, agreeing that flag burning is protected by the First Amendment. In response to the Johnson decision, there have been votes for an amendment protecting the flag, but none with enough majority to adopt the amendment.

Constitutionality of flag burning has been supported by the guarantee of free speech, including symbolic speech, in the First Amendment. However, the Supreme Court has ruled that freedom of speech has limits; restricted areas of speech include obscenity, defamation, speech that leads to illegal action, fighting words, and speech in public schools. Because obscenity is generally defined as anything that violates society's standards of decency, desecration of Old Glory could be considered indecent, thus unprotected by the Constitution. The consideration of actions protected as speech also allows for destruction of the flag to be viewed as fighting words, exceeding another limit of the First Amendment. In *Chaplinsky* v. *New Hampshire* (1942), the Supreme Court defined ''fighting words'' as words that, ''have a direct tendency to cause acts of violence.'' Flag burning seems a fighting word as it often leads to acts of violence. When considering obscenity and fighting words, the flag does not appear to be protected by free speech. Therefore, it seems in order to go ahead and proceed with the next step, creating an American Flag Protection Amendment.

To propose such a protection amendment, two-thirds of the members of both houses of Congress or the same percentage of members of a national convention must vote for the proposal of the amendment. Once proposed, three-fourths of the states must ratify the amendment by a vote in each state's legislature or state convention. If enough citizens gave their support of an American Flag Protection Amendment, the representatives of the people would surely follow their will and obtain protection for the banner of the nation.

American's flag needs and deserves to be treated with dignity, and it is the right of the public to rally for Constitutional protection of the magnificent symbol of the United States. So much time as already elapsed—now is the time to act justly on the behalf of Old Glory. With swift action, Stars and Stripes will be able to, ''wave as our standard forever.''●

MORDECHAI STRIGLER

● Mr. MOYNIHAN. Mr. President, today is a bittersweet day at the Jewish Theological Seminary in New York City where the annual commencement ceremony will include an unprecedented presentation of a posthumous honorary doctorate to Mordechai Strigler, the talented editor of the Yiddish Forward who died last week at the age of 76.

I rose almost a year ago today to share with the Senate the news of the Forward's centenary. This remarkable newspaper, which once helped hundreds of thousands of new immigrants learn about their new homeland, now prints Yiddish, Russian and English weekly editions. The Yiddish edition has gone from a daily press run of 250,000 copies to a weekly run of 10,000, but has retained much of the literary excellence and social conscience that has so characterized the Forward during its storied history.

Mordechai Strigler was born in 1921 in Zamosc, Poland, and was sent to study in a yeshiva at age 11. In 1937 he began work as a rabbi and teacher in Warsaw.

When the Germans occupied Poland in 1939, he tried to escape to Russia, but was caught at the border. He spent

a few months at the Zamosc ghetto with his parents and then five years in several concentration camps. In Buchenwald, he was a member of the Resistance and served as a covert teacher for the children incarcerated there. He was liberated on April 11, 1945.

After the war, he began writing furiously and prolifically for the next 53 years until his death. He chronicled the slave-labor camps and death factories in a six-volume Yiddish series called ''Oysgebrente Likht'', which means ''Extinguished Candles''.

In 1955, Strigler published two volumes called ''Arm in Arm with the Wind,'' a historical novel about Jewish life in Poland in the 17th and 18th centuries.

His newspaper career began in Warsaw just before the war and flourished in Paris after the war. In France, he served as editor of Unzer Vort (Our world), a Yiddish daily.

While in New York, he was offered the editorship of the Kemfer, a position he held until 1995. He published such classic Yiddish writers as Abraham Reizen, H. Leivik, Chaim Grade, and Jacob Glatstein.

In 1978, Strigler was awarded the Itzak Manger Prize in Jewish Literature, one of the most distinguished prizes in the field.

He became editor of the Yiddish Forward in 1987, following the retirement of Simon Weber, and he remained at its helm until last month.

''The death of Strigler marks not only a sad transition for his colleagues in the Yiddish, Russian, and English editions of the Forward but also a milestone in the area of Yiddish-language journalism and the literature of the Holocaust,'' the English-language Forward said in an obituary.

I ask to have printed in the RECORD the English edition of the Forward's moving editorial tribute to this talented journalist.

MORDECHAI STRIGLER

Mordechai Strigler, the editor of the Yiddish Forward who died Sunday at the age of 76, was one of the giants. Born at Zamosc, Poland, he became famous at a young age as a genius of Talmud. He was apprenticed to the greatest sages of his time. He was at the barricades in Warsaw when the Germans invaded. He fled toward Russia, but was captured by the Nazis, who cast him into concentration camps. His parents and three of his seven sisters perished. He himself was in, among other camps, Maidenek, Skarhisko and Buchenwald, where he was a member of the Resistance and where on liberation he was spotted by Meyer Levin, who wrote about his heroism in his memoir ''In Search''. Levin told of Strigler gathering children secretly in the barracks and teaching them Yiddish and Hebrew. He had lost his pre-war manuscripts during the war. It is said that upon liberation he began writing furiously. He continued until weeks before he died. He turned out cycles of poetry and novels, as well as biblical commentaries and analysis of rabbinic responsa and thousands of items of journalism—editorials, dispatches, criticism and feuilletons. Moving to Paris immediately after the war, he became editor of Unzer Vort and joined the Labor Zionist movement. As editor of the Yiddisher Kemfer and, later, the Yiddish Forward as well, he maintained a courteous and gentle exterior, but it belied an extraordinary toughness. No matter how others around him might fume, he would go on doing what he thought was right. His achievements are well known. He touched Jews the world over, inspired his colleagues and set a standard to which all the editors of the Forward, in Yiddish, Russian, and English, look up.

Yet for all these achievements, there was a dimension to Mordechai Strigler that remained a mystery, even to many of us who worked in the same editorial rooms with him for years. It had to do with his spiritual journey. Had history taken a different turn, it is as a Torah sage that he might be remembered today. But the Holocaust shook his faith and led him to quarrel with God. He emerged to write poetry and fiction. He entered the political fray for the labor faction. Hope came to him from the establishment of the Jewish state, which became, along with Jewish unity, his abiding passion. After he reached America, he began corresponding with a young woman in Jerusalem, Esther Bonni, a scientist. When they finally met in Israel, a romance developed and marriage followed. After the birth of their daughter, Leah, the glimmer of Strigler's spiritual life began to shine again. Leah talked at his funeral of Strigler's enduring attachment to text and of his powers as a teacher. He was obsessed with the accuracy of citations of Torah and Talmud, so that whenever she asked a question, he would insist on checking sources, even though he almost always knew the references by heart. In recent years, his intimates relate, he had occasion to lay tefillin. Even then it was said that he had not again become a believer but was merely observing a mitzvah. Yet as he lay dying at Roosevelt Hospital, his daughter read to him for days from the Bible, holding the text in one hand and here father's hand in the other. His daughter and wife sang prayers in Yiddish and Hebrew, which for precious moments brought him out of his coma. This is how this editor who had lived and chronicled and tragedies and triumphs of our century spent his last days—called back to consciousness, however fleetingly, by the languages of the Jews.●

THE SPALLATION NEUTRON SOURCE: A CRITICAL ELEMENT OF OUR VISION OF THE FUTURE

● Mr. FRIST. Mr. President, the Spallation Neutron Source currently being developed at Oak Ridge, Tennessee will be the most powerful spallation source of neutrons in the world. It will enable scientists to ''see'' and thus understand the physical, chemical, and biological properties of materials at the atomic level.

In nuclear physics, Mr. President, the study of neutrons led to the development of nuclear weapons, nuclear energy, medical isotopes, and our understanding of the energy and evolution of the stars and the origins of the solar system.

In condensed matter physics, neutrons are used—among other things—to study magnetic materials, magnetic resistance, and the dynamic aspects of glasses, liquids, amorphous solids, and phase behavior.

In materials science, neutrons are used to study diffusion, crystal structures, the spatial distribution of impurities, and the stress capacities of forgings, castings, and welds.

In chemistry, neutrons are used to determine molecular, crystal, and large-scale structure.

In biology, neutrons are used to determine the structure of protein and protein complexes in lipids and biological membranes, and to determine the molecular arrangements on biological surfaces to help us better understand the function of cell surface receptors.

The one common requirement in all of these research fields is an intense source of neutrons. And the only such source other than a large nuclear reactor is an energetic particle accelerator such as the Spallation Neutron Source.

Mr. President, as I've just pointed out with this by-no-means-complete list of examples, neutron scattering has now become an indispensable tool within a broad range of scientific disciplines: physics, chemistry, materials science, nuclear physics, biology, earth science, engineering and medicine—which is why the Spallation Neutron Source is a critical element of our vision of the future.

Far from a jobs program or a pie-in-the-sky experiment, Mr. President, spallation is the newest anchor of our national research effort. And it will contribute to America's economic and technological growth in thousands of ways.

By helping us understand the properties of materials at the atomic level, U.S. chemical companies will produce better fibers, plastics, and catalysts; U.S. pharmaceutical companies will produce better drugs—with higher potencies and fewer side effects; U.S. automobile manufacturers will build cars that run better and are safer to operate; and U.S. aircraft manufacturers will build planes that are stronger, lighter, faster, and safer—with fewer defects, lower stress levels, and greater fuel efficiency.

We'll create stronger magnets and magnetic materials—that will result in more efficient electric motors and generators, better magnetic recording tapes, computer hard drives, and medical magnetic resonance systems.

And all across America, U.S. industries will produce everything from better low-fat foods, credit cards, and cosmetics, to clothes that don't wrinkle and bags that don't break, to better airport detection equipment and bulletproof vests.

In the next century, the achievements will be even greater—especially in the field of medicine. We'll see drug delivery systems that release medicine precisely when and where the body needs it—without side effects; artificial blood that will eliminate the need to screen for viruses or procure exact blood types in times of emergency; corrosion-resistant medical implants that will last a lifetime and never have to be replaced; and smaller, faster electronic chips that will lower energy costs and increase convenience in hundreds of products.

In other words, Mr. President, spallation is not only essential to the advancement of important scientific research, it's absolutely critical to retaining our competitive edge in the global economy and the quality of life we have come to enjoy.

Completion of the Spallation Neutron Source—on time and on budget—must be a priority for another reason as well. Over the last 20 years, America has fallen alarmingly behind Europe in the availability of up-to-date neutron sources and instrumentation. The major research reactors in our inventory—the HFIR at Oak Ridge, Tennessee, and the High Flux Beam Reactor—were built more than 30 years ago. With the demise of the ANS (Advanced Neutron Source), and all it represented in terms of maintaining America's strength is neutron science, we cannot reasonably expect those aging facilities to sustain our entire neutron scattering effort.

Fortunately, unlike ANS—whose pricetag [$3B] and lack of public support caused the Administration to abandon the effort—Spallation is both affordable [$2B] and strongly endorsed by both the White House and the Congress.

Mr. President, the Spallation Neutron Source is a big part of that vision of our vision for the future. As with all of America's truly imaginative ventures—the space program, the Human Genome Project, the Hubble telescope—its benefits will be felt for years to come.

But there is another reason Spallation must be supported, Mr. President. It is, in my view, exactly the kind of project the federal effort was designed to produce and support: It's good science—that is both knowledge-driven and mission-driven; it will be fiscally accountable—if we in Congress do it right; it has a consistent approach; it will have measurable results; it will create a flow of technology, from research through commercialization; it will promote excellence throughout the American research infrastructure, and across a broad range of initiatives; and it will create partnerships among industry, academia, and the national labs.

And because of the way it was set-up as a cooperative partnership among the national labs—Lawrence Berkeley will be responsible for the ion source; Los Alamos, for the linear accelerator; Brookhaven, for the accumulator ring; Argonne, for the instrumentation and experiment facilities; and Oak Ridge for the conventional facilities, target apparatus, and overall project management—it will increase Congress' ability to focus on the importance of science and technology; decrease the likelihood that it will get side-tracked by politics; and ensure that spallation is consistent and effective.

In other words, Mr. President, the real effects of this project don't end with Spallation, they begin with it—and with us and our commitment to science and technology future.●

TRIBUTE TO PRESIDENT JIMMY CARTER ON THE NAMING OF THE U.S.S. JIMMY CARTER SUBMARINE

● Mr. CLELAND. Mr. President, I rise today to congratulate former President Jimmy Carter on the naming of the Navy's third and final *Seawolf*-class submarine, the U.S.S. *Jimmy Carter.*

After graduating from the U.S. Naval Academy in 1946, President Carter fulfilled a dream from his childhood in southwest Georgia by serving in both the Atlantic and Pacific fleets. As a submariner, he was selected by the late Adm. Hyman Rickover to help in the development of the fledgling U.S. nuclear submarine program, a program which has realized its full potential in the *Seawolf*-class attack submarines.

I had the privilege of attending the naming ceremony at the Pentagon on April 27 with President and Mrs. Rosalynn Carter. Navy Secretary John H. Dalton praised the U.S.S. *Jimmy Carter* as a bridge to the next generation of attack submarines. The newest *Seawolf* vessel, named after the only President to serve on a submarine, is currently being built and is due to join the U.S. fleet in December 2001.

I ask my colleagues in the Senate today to join me in saluting and congratulating President Carter on his years of service in this Nation's Navy, and later as Governor of my home State of Georgia and President of the United States. President Carter is respected by all Americans for his efforts on behalf of our country both during and after he held office. The naming of the U.S.S. *Jimmy Carter* is a wonderful tribute to honor a great American in a manner befitting his outstanding service to this nation.●

PAU-WA-LU MIDDLE SCHOOL

● Mr. BRYAN. Mr. President, I rise today to recognize the achievements of the Pau-Wa-Lu Middle School in Gardnerville, Nevada. Each year for the last four years, Pau-Wa-Lu Middle School has been involved in a major service project within its community.

In 1995/96, the school sponsored a cleanup project during which 250 students and adults cleared years of accumulated trash from green belts within their community.

In 1997, when a major flood devastated the homes and businesses of many of Northern Nevada's citizens, over 600 students and adults donated more than 4,000 man hours to helping flood victims recover their lives and property.

And in 1998, over 300 students and adults from Pau-Wa-Lu and Carson Valley Middle Schools have planted trees in Autumn Hills, an area that has been devastated by forest fire.

I am pleased to recognize Pau-Wa-Lu Middle School for its commitment to community and instilling this same spirit in its students.●

RULES FOR SPECIAL COMMITTEE ON YEAR 2000

● Mr. BENNETT. Mr. President, I rise today to submit for the RECORD, in accordance with Senate Rule 26.2, the Rules for the Special Committee on the Year 2000 Technology Problem which were adopted by a unanimous vote of the Committee on Wednesday, May 20, 1998.

Also, I want to express my gratitude to the leadership on both sides of the aisle for their support, without which we could not have created this very important Committee. I also want to take a moment to mention that the Sergeant at Arms' great help in assisting us in the set up of our offices. Finally, I would be remiss not to mention that the hard work and patience of the staff of the Rules Committee has also aided us in moving forward in a more expeditious fashion.

RULES OF PROCEDURE

I. CONVENING OF MEETINGS AND HEARINGS

1. Meetings. The Committee shall meet to conduct Committee business at the call of the Chairman.

2. Special Meetings. The Members of the Committee may call additional meetings as provided in Senate Rule XXVI(3).

3. Notice and Agenda:

(a) Hearings. The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

(b) Meetings. The Chairman shall give the Members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) Shortened Notice. A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Vice Chairman, determines that there is good cause to begin the hearing or meeting on an expedited basis. An agenda will be furnished prior to such a meeting.

4. Presiding Officer. The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the Ranking Majority Member present shall preside. Any Member of the Committee may preside over the conduct of a hearing.

II. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. Procedure. All meetings and hearings shall be open to the public unless closed pursuant to paragraph 3 of this section. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in Rule II.3. Immediately after such discussion, the meeting or hearing may be closed by a vote in open session of a majority of the Members of the Committee present.

2. Witness Request. Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. Closed Session Subjects. A meeting or hearing or portion thereof may be closed if the matters are consistent with Senate Rule XXVI(5)(b).

4. Confidential Matter. No record made of a closed session, or material declared confidential by the Chairman and Vice Chairman, or report of the proceedings of a closed session, shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and Vice Chairman.

5. Radio, Television, and Photography. The Committee may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television, or both, subject to such conditions as the Committee may impose.

III. QUORUM AND VOTING

1. Reporting. A majority of voting members shall constitute a quorum for reporting a resolution, recommendation, or report to the Senate.

2. Committee Business. Three voting members shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority Member is present. One Member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3. Polling.

(a) Subjects. The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) authorizing subpoenas; and (3) other Committee business which has been designated for polling at a meeting.

(b) Procedure. The Chairman shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls. If the Chairman determines that the polled matter is one of the areas enumerated in Rule II.3, the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

IV. SUBPOENAS

1. Subpoenas. Subpoenas may be authorized by the Committee at a meeting of the Committee or pursuant to Rule III.3.a (above). Subpoenas authorized by the Committee may be issued over the signature of the Chairman after consultation with the Vice Chairman, or any member of the special committee designated by the Chairman after consultation with the Vice Chairman, and may be served by any person designated by the Chairman or the member signing the subpoena.

V. HEARINGS

1. Notice. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. Oath. All witnesses who testify to matters of fact shall be sworn. The Chairman or any Member may administer the oath.

3. Statement. Any witness desiring to make an introductory statement shall file 50 copies of such statement with the clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and Vice Chairman determine that there is good cause for a witness's failure to do so.

4. Counsel:

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing, or staff interview to advise the witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not associated with the government, corporation, or association.

(b) A witness who is unable for economic reasons to obtain counsel may inform the Committee of this circumstance at least 48 hours prior to his appearance, and the Committee will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel shall not excuse the witness from appearing and testifying.

5. Transcript. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in closed and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors in fact. The Chairman or a designated staff officer shall rule on such requests.

6. Minority Witnesses. Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority Members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the completion of the hearing.

7. Conduct of Witnesses, Counsel and Members of the Audience. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative, or any law enforcement official to eject said person from the hearing room.

VI. AMENDMENT OF RULES

The rules of the Committee may be amended or revised at any time, by a majority vote of the Committee, provided that no less than 3 days notice of the amendments or revisions proposed was provided to all members of the committee.●

TRIBUTE TO THE OUTSTANDING DISASTER ASSISTANCE PROVIDED BY THE GRAND FORKS AIR FORCE BASE AND ITS BRANCH OF THE AMERICAN RED CROSS

● Mr. CONRAD. Mr. President, I rise today to pay tribute to the extraordinary disaster assistance efforts of the Grand Forks Air Force Base (AFB) and its branch of the American Red Cross.

Twelve months have passed since my state suffered the worst winter and spring of its history. A record eight blizzards dropped more than eight feet of snow on North Dakota, and brought with them sub-zero temperatures well into the month of April. The worst and final storm, Blizzard Hannah, glazed the state in a thick coat of ice, knocked out power for much of North Dakota, and made the snowmelt that followed even more devastating. On the heels of these paralyzing storms came a ''500-year'' flood, driving thousands from their homes, many in the middle of the night.

The hasty evacuation of Grand Forks, North Dakota, was the single largest evacuation in recent American history. Roused from their beds by the wail of sirens, many citizens left their city with little more than the clothes on their backs. Homes inaccessible and loved ones far away, thousands lacked shelter.

I firmly believe that the evacuation of Grand Forks would have been impossible without the Grand Forks AFB providing for those in need of a safe place to sleep and something to eat. The Base opened the doors of its homes and cleared its hangars of aircraft to house neighbors in need. It is estimated that 4,500 residents of Grand Forks found shelter at the air base.

The assistance of the Grand Forks AFB Red Cross was also invaluable. Red Cross volunteers worked tirelessly over the period of the flood feeding the displaced, staffing the hospice center for the elderly, locating loved ones, and ably dealing with the daunting task of sheltering thousands. Then, when the waters receded, the Grand Forks AFB American Red Cross continued its efforts: cleaning flood-damaged homes, housing those whose homes remained unlivable, and working to meet the needs of its neighbors. Six hundred fifty volunteers recorded nearly 48,000 hours of service in the flood and flood-recovery effort.

Mr. President, these were volunteers in the best sense of the word. The men and women of the Grand Forks AFB Red Cross were not immune to the emotional upheaval of last year's disasters in the Red River Valley. These volunteers had families and jobs, and in many cases suffered disaster losses of their own, but they gave of their time freely. Though many of these men and women only enjoyed a brief stay at Grand Forks AFB, we North Dakotans will always consider them neighbors.

The dedicated and selfless service of Grand Forks AFB personnel made me tremendously proud of America's Air Force, and our base. I was particularly impressed that Air Force personnel labored to battle flood waters, even as their own homes were inundated. I felt it was the least I could do to author an amendment which ensured that all Grand Forks AFB personnel would have full access to an Air Force disaster relief program.

Together with all my fellow North Dakotans I would like to extend my sincerest thanks to Grand Forks AFB an the base's American Red Cross. The base commander at the time, Brigadier General Kenneth W. Hess, and the Station Manager of the American Red Cross at the time, Mary Martin, deserve special thanks. Additionally, I would like to thank the current base commander, Colonel James A. Hawkins, for his continued assistance in helping Grand forks get back on its feet. Under their leadership, the base and the Red Cross helped save a community, and made the state and the Nation proud.

Mr. President, I ask that my letter to Brigadier General Kenneth W. Hess be printed in the RECORD.

The letter follows:

U.S. SENATOR,
Washington, DC, May 6, 1997.

Brig. Gen. KENNETH W. HESS,
Commander, 319 Air Refueling Wing, Grand Forks Air Force Base, Grand Forks, ND.

DEAR GENERAL HESS: Working on the disaster has become all consuming, but I did want to take a moment to let you know how much I appreciate the courtesies you extended to me and my staff on our recent stay. Too, I shall be forever grateful to you for all you have done for the people of North Dakota.

The night-time evacuation of the city of Grand Forks would have been impossible without the availability of the Grand Forks Air Force Base facilities to those in need of shelter. Your quick response and leadership made a situation rife with danger manageable. This same helpful attitude was evident everywhere on the Base—encouragement, hope, and a warm smile went along with the uniform whether at the Emergency Operations Center of the Command Center. And, kindness did not hamper your efficiency—The Grand Forks Air Force Base was a gracious host to the President of the United States and six Cabinet Members in the midst of a disaster.

General Hess, you can be very proud of the men and women of the 319 Air Refueling Wing. One Airman mentioned to a member of my staff, ''We're glad to help out. We are just one big Grand Forks family.''

With deepest appreciation,

Sincerely

KENT CONRAD,
U.S. Senate.●

RECOGNITION OF ROSS P. MARINE

● Mr. BOND. Mr. President, On May 31, 1998, Ross P. Marine, DHL, MHA, Senior Vice President and Chief Operating Officer, Trinity Luthern Hospital, Kansas City, Missouri, and former Administrator, Truman Medical Center East (Truman East), and the Director of Public Health for the Jackson County Health Department (JCHD), is receiving the Citizen of the Year award from UNICO/Kansas City Chapter. As the recipient, he may select a charity of his choice to receive half the proceeds from the awards dinner. Mr. Marine has chosen to give his donation to the Truman Medical Center East Auxiliary's commitment to the renovation of the Obstetrics Unit into a new Labor, Delivery, Recovery and Postpartum wing at Truman East.

UNICO stands for Unity, Neighborliness, Integrity, Clarity and Opportunity and is a national organization made up of men and women of Italian descent who work for positive community service. A Board member or current officer nominates the candidate, for Citizen of the year. Candidates must have an interest in their community and working with others to make their community a better place.

Mr. Marine has continually shown that he not only has concern for the betterment of his community, but has also taken a leadership role. He made health care more accessible by starting five public health outreach facilities. Truman East received $38 million in renovation and expansion because of Mr. Marine's efforts. While embracing the credo of UNICO, ''Service above Self,'' he has helped his community and therefore Missouri as a whole. He has been appointed to numerous Boards of Directors and received many awards for all his outstanding achievements.

Commending Mr. Marine for his many years of service to his community and the field of medicine, I am glad to say that the State of Missouri is enriched with his wisdom and leadership. I join the many who congratulate and thank him for his hard work and wish him continued success in future years.●

CELEBRATION OF INTERNATIONAL SPACE DAY

● Mr. GRAHAM. Mr. President, as the senior Senator from the state that launched the Mercury astronaut pioneers into space, sent Apollo astronauts to the moon, and has hosted numerous space shuttle launches since 1981, it is a tremendous privilege to lead the U.S. Senate in recognizing May 21 as ''International Space Day.''

Our nation's exciting adventure in space began just over forty years ago, with the launch of the Explorer I satellite on January 31, 1958. The celebration of this anniversary gave us cause to look back at America's four decades in space. ''International Space Day'' gives us a chance to look forward and assess how to seize the space opportunities of the future.

Mr. President, forty years after we launched our first satellite and nearly thirty years since Neil Armstrong took mankind's first steps on the lunar surface, Americans remain captivated by the exploration of space.

Students across the nation eagerly study past achievements and future adventures in space exploration. In Florida, tourists flock to the Kennedy Space Center on Cape Canaveral to see the famed launch pads and rockets that have boosted man into space. Right here in Washington, the National Air and Space Museum, National Space Society, and the aerospace industry have put space right on Congress' doorstep.

''International Space Day'' is an appropriate occasion to reflect on how our exploration and utilization of space dramatically affects our day-to-day lives. It is especially timely this week, when the breakdown of the Galaxy Four satellite has wreaked havoc in our nation's telecommunications sector. Many of us have constituents who were unable to listen to National Public Radio's reports on this week's floor debate on comprehensive tobacco legislation. Thousands of Americans have been inconvenienced because their pagers do not work. Doctors, businesses, television viewers and radio listeners—virtually everyone in our society—have been affected.

Relatively few Americans have had the opportunity to escape the Earth's atmosphere and gravity, but space affects all of us. Galaxy Four is just one example of how critical the utilization of space is to our economy. We are on the brink of a new frontier in commercial space activity, with almost weekly launches of new communications satellites and the most competitive space launch market in decades.

In 1998, the Senate will have a unique opportunity to remove barriers that impede U.S. companies in the exploration of this new frontier. U.S. Senator CONNIE MACK and I introduced the Commercial Space Act in the Senate last fall and we hope to see it passed soon.

Mr. President, this is an exciting time to be discussing space issues in the U.S. Congress. At NASA's Kennedy Space Center—the nation's premiere launch base—the space shuttle continues to faithfully serve our manned space program. An international team of engineers and astronauts is assembling a new space station. In 1997 and early 1998, the Mars Pathfinder blazed a four-wheel drive trail on the Red Planet and the launch of the Lunar Prospector marked our return to the moon. In October, my colleague JOHN GLENN of Ohio will return to space after thirty-seven years on Earth. VentureStar is under development as our nation's space vehicle of the future. And space tourism—featuring space planes that operate from traditional airports—is becoming more and more of a likelihood.

I hope these developments inspire young Americans to develop the science, math, and engineering expertise that our nation needs to maintain its leadership in space. Congress should encourage efforts like that of the U.S. Space Foundation's Mission Home, a program that brings together space societies and aerospace companies to educate communities all over the nation about our exciting future in space.

Mr. President, Disneyland will rededicate its Tomorrowland on Friday—forty-three years after it first inspired young adventurers to aim beyond the stratosphere. I will depend on all 100 members of this legislative body to help make sure that the United States is actively preparing for its tommorowland by keeping our nation on the forefront of the exploration, utilization, and commercialization of space today. Working together, we can ensure that every day is space day in the U.S. Senate.●

50TH BIRTHDAY OF THE ISRAEL'S INDEPENDENCE

● Mr. SANTORUM. Mr. President, in 1948 when Israel was fighting its most costly war ever—the war for independence—Israel's future Prime Minister was told by the greatest military experts in the world that his newly created State of 600,000 had no chance of surviving. Now, in 1998, Israel is celebrating its 50th year of independence.

I commend the Jewish Federation of the Scranton-Lackawanna community for observing this historic occasion the weekend of May 1–3.

The State of Israel became a home for Jews after more than 6 million European Jews were massacred during the Holocaust. Over the past 50 years, Israel has acted as a refuge for thousands of Jews throughout the world and integrated them into their society, while rebuilding a nation and creating an active democratic political system.

On May 17, I joined Mayor Edward Rendell and Israeli Consul General Daniel Ashbel in Philadelphia to celebrate Israel's 50th Independence Day birthday party. During the opening ceremonies, I thought of how Israel is a land of wonderful contrast. It is both a nation of great history and a nation of great accomplishment. From the historical perspective, the events that have sprung forth from that land over the centuries are overwhelming to even consider. No matter what religious tradition one might follow, the basic laws that went on to frame many of the tenants of our democratic form of government, and the rules of conduct in a civil society, came out of the land we have always called Yis-ra-el.

Today, Israel has a growing economy, farms on land that were once claimed by the deserts, and high-tech companies producing cutting edge products for our global marketplace. No other society in the course of human history can claim such progress in 50 short years. No other nation can claim to have risen to these heights from the horrors of the Holocaust. That is why Israel is so unique, so special, and so deserving of our unyielding and unconditional support.

The United States has always maintained a relationship with Israel that is based on mutual respect. America's commitment to Israel's security undergirds the entire peace process and provides Israel the confidence it needs to take very real risks for peace. I encourage the United States to continue to act in a respectable manner by not imposing a settlement on Israel that is contrary to its national security interests.●

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION COMPETITION

● Mr. CLELAND. Mr. President, I rise today to recognize the following students from Dunwoody High School in Dunwoody, Georgia and their teacher for their excellent performance in the We the People . . . The Citizen and the Constitution. I would like to congratulate the students who competed in this year's competition: Bakari Brock, Jennifer Campbell, Richard Cartwright, Michael Cayes, Carol Chandler, Melissa Chastney, Zack Cullens, Melissa Derrick, Kevin Franklin, Erin Green, Judy Hudgins, Rebecca Lamb, Dwayne O'Mard, Sandra Park, Andrea Pierce, Jennifer Price, Scot Prudhomme, Carlyn Sibler, Geren Stone, Dannon Taylor, David Weiner, David Yoo, and teacher Celeste Boemker. I would also like to recognize the efforts of the State Coordinator, Michele Collins and District Coordinator, John Carr, who helped these students make it to the finals.

This bright group of young students competed against 49 other classes from around the nation, testing their knowledge of the United States Constitution and our government. Administered by the Center for Civic Education, the program is the most extensive of its kind, reaching more than 26 million students in elementary, middle and high schools. The students spent hours in role playing and testing to prepare themselves for this competition. The three-day program simulates a Congressional hearing in which students' presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Mr. President, it is with great pride that I offer my congratulations to these students from Dunwoody High School for their outstanding performance at the We the People competition, and wish them continuing success with their future studies.●

CONTINUING JUDICIAL VACANCY CRISIS IN THE SECOND CIRCUIT

● Mr. LEAHY. Mr. President, the Senate's Republican leadership is refusing to take action to end the judicial emergency in the United States Court of Appeals for the Second Circuit.

On March 25, the five continuing vacancies on the 13-member court caused Chief Judge Ralph Winter to certify a Circuit emergency, to begin canceling hearings and to take the unprecedented step of having 3-judge panels convened that include only one Second Circuit judge. On April 23, Chief Judge Winter was forced to issue additional emergency orders. For two months and into the foreseeable future the Senate has neglected its responsibility to the people of the Second Circuit.

I have been urging favorable Senate action on the nomination of Judge Sonia Sotomayor to the Second Circuit to fill a longstanding vacancy for many months. That nomination remains stalled on the Senate calendar. Two weeks ago the nomination of Chester J. Straub to the Second Circuit was favorably reported by the Judiciary Committee. That nomination is now also on the Senate calendar awaiting action. Today, the Senate Judiciary Committee is favorably reporting two additional nominees to the Second Circuit, Judge Rosemary Pooler and Robert Sack. That makes four nominees to the Second Circuit awaiting confirmation, four nominees who can end the judicial vacancies crisis that plagues the Second Circuit. But for the inaction of the Majority Leader in calling for votes by the Senate on this qualified nominees, the crisis could end this week. I, again, urge that action.

Before the last recess I introduced legislation calling upon the Senate to address this kind of judicial emergency before it takes another extended recess. The Senate has pending before it four outstanding nominees to the Second Circuit whose confirmations would end this crisis.

Unfortunately Republican Senate leadership has not taken the judicial vacancies crisis seriously and has failed to take the concerted action needed to end it. They continue to perpetuate vacancies in almost one in 10 federal judgeships.

With 11 nominees on the Senate calendar and 32 pending in Committee, we could be making a difference if we would take our responsibilities to the federal courts seriously and devote the time necessary to consider these nominations and confirm them. Instead, we are having hearings at a rate on one a month, barely keeping up with attrition and hardly making a dent in the vacancies crisis that the Chief Justice of the United States has called the most serious problem confronting the judiciary.

By a vote of 16 to 2, the Judiciary Committee reported the nomination of Judge Sonia Sotomayor to the Senate. That was on March 5, 1998, over two months ago. No action has been taken or scheduled on that nomination and no explanation for the delay has been forthcoming. This is the oldest judicial nomination pending on the Senate Executive Calendar. In spite of an April 8 letter to the Senate Republican Leader signed by all six Senators from the three States forming the Second Circuit urging prompt action, this nomination continues to be stalled by anonymous objections. Our bipartisan letter to the Majority Leader asked that he call up for prompt consideration by the Senate the nomination of Judge Sonia Sotomayor. That was over one month ago.

Judge Sonia Sotomayor is a qualified nominee who was confirmed to the United States District Court for the Southern District of New York in 1992 after being nominated by President Bush. She attended Princeton University and Yale Law School. She worked for over four years in the New York District Attorney's Office as an Assistant District Attorney and was in private practice with Pavia & Harcourt in New York. She is strongly support by Senator MOYNIHAN and Senator D'AMATO.

She is a source of pride to Puerto Rican and other Hispanic supporters and to women. When confirmed she will be only the second woman and second judge of Puerto Rican descent to serve on the Second Circuit.

Judge Rosemary Pooler was nominated back on November 6, 1997, as was Robert Sack, a partner in the law firm of Gibson Dunn & Crutcher. They participated in a confirmation hearing on May 14 and were reported to the Senate by the Judiciary Committee today.

Since May 7 the fourth pending nomination to the Second Circuit, that of Chester J. Straub, has also been on the

Senate calendar. Mr. Straub is a partner in the law firm of Willkie Farr & Gallagher.

Judge Sotomayor, Judge Pooler, Robert Sack and Chester Straub can and should all be confirmed to the Second Circuit before the Senate adjourns for its Memorial Day recess.

In his most recent Report on the Judiciary the Chief Justice of the United States Supreme Court warned that persisting vacancies would harm the administration of justice. The Chief Justice of the United States Supreme Court pointedly declared: ''Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary.''

The people and businesses in the Second Circuit need additional federal judges confirmed by the Senate. Indeed, the Judicial Conference of the United States recommends that in addition to the 5 vacancies, the Second Circuit be allocated an additional 2 judgeships to handle its workload. The Second Circuit is suffering harm from Senate inaction. That is why the Chief Judge of the Second Circuit had to declare the Circuit in a state of emergency.

Must we wait for the administration of justice to disintegrate further before the Senate will take this crisis seriously and act on the nominees pending before it? I pray not.●

CONGRATULATIONS TO EAST HIGH SCHOOL, FINALIST IN THE WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

● Mr. ALLARD. Mr. President, I rise today to pay tribute to the students from East High School in Denver, CO who participated in the ''We the People . . . the Citizen and the Constitution finals held here in our Nation's Capital, May 2–4, 1998. East High School competed against 49 other classes from across the Nation. Their hard work was rewarded with an Honorable mention as one of the top ten finalists in the competition.

I am always pleased when I have the opportunity to come to the Senate floor to praise students that have taken an interest in their government and their Constitution. By taking part in this competition, the students of East High School have served to strengthen the foundation of our democracy.

Mr. President, I would like to congratulate the participants, Daniel Berson, Lisa Bianco, Rosemary Blosser, Tristan Bridges, John Patrick Crum, Jessica Dismang, Belle Duggan, Sterling Ekwo, Heidi Gehret, Sarah Givens, Jamaal Harmon, Courtney Hopley, Scott Kronewitter, Melanie McRae, Jennifer Newman, Gavin Rember, Jennifer Roche, Sarah Showalter, Jessica Slenger, Lauren Strickland, Matthew Vellone, Feliz Ventura, Michaela Welch, and their teacher Ms. Deanna Morrison for doing such a fine job of representing Colorado.

I cannot overstate the achievements of these young people, they are some of the best and brightest that America has to offer. I am proud to say that I, along with all Coloradans, congratulate East High School on a job well done.●

UNIVERSITY OF MICHIGAN MEN'S ICE HOCKEY CHAMPIONSHIP

● Mr. LEVIN. Mr. President, I rise today to congratulate the University of Michigan hockey team on their 1998 NCAA Championship—The Wolverines' second hockey title in three years.

On Saturday, April 4th, the Michigan hockey team defeated Boston College (3–2) in overtime for the championship. This is a remarkable achievement for a team which lost nine senior players from last year's team, including the Hobey Baker trophy winner and 5 players who each scored 20 or more goals in the season. The 1997–98 Michigan team featured 10 freshmen, one of whom scored two goals in the final game, and another who scored the winning goal in overtime in the championship game.

When the 1997–98 season started, it was expected to be a rebuilding year for the Wolverines. The young team faced a difficult season against some of the toughest teams in the nation. Instead, the Michigan team earned a 34–11–1 record, seizing every chance to display their athleticism, sportsmanship, teamwork, and perseverance.

The University of Michigan ice hockey players have always been among the ''leaders and best.'' As the Wolverines celebrate this year's victory, they also commemorate the anniversary of their first NCAA title fifty years ago, when the tournament began. In the last 50 years, the Wolverines have brought nine championship titles back to Ann Arbor, making them the winningest team in NCAA men's ice hockey history.

The ''Victors'' are indebted to the strong leadership they have from Head Coach Red Berenson and players, Captain Matt Herr and Assistant Captains Bill Muckalt and Marty Turco. These three seniors, along with Chris Fox and Gregg Malicke, advanced to the Final Four four seasons in a row. In addition, senior Bill Muckalt was named a Hobey Baker award candidate and All-American player, and senior goaltender Marty Turco finished his college career with one of the most impressive records in college hockey. The goalie's four years at Michigan gave him a record of 127 career victories and nine victories in NCAA elimination games, making him the winningest goaltender in NCAA tournament history. Turco was also selected most valuable player in the Final Four after stopping 28 shots in the championship game.

I extend my best wishes to the University of Michigan Men's Ice Hockey Team on a tremendous season and the 1998 NCAA Championship—Go Blue!●

LYMPHATIC FILARIASIS

● Mr. FAIRCLOTH. Mr. President, I rise today to speak on behalf of a charitable contribution worthy of note. Lymphatic filariasis is a terrible disease that our citizens are not likely to see here in the United States, but it is one of the World's most disabling and disfiguring diseases. It affects people in 73 countries, mainly in tropical and subtropical areas of India, Africa, Asia and South America.

The disease is caused by a parasite, carried by mosquitoes. Efforts to eliminate mosquitoes have not been successful in these regions, and the result is an endless cycle of infection for human hosts.

The World Health Organization has embarked on a campaign to stop this dread disease. Lymphatic filariasis infects 76 million people world wide. The parasitic worms, often only the size of a thread, live in humans by lodging in the lymphatic system. They live for up to six years, producing millions of microscopic larvae that circulate in the blood. When symptoms appear, they can be devastating. Kidney damage and painful swelling of the extremities are typical examples of the suffering endured by these victims.

The best previous defense against this disease was the administration of a single dose of two drugs, diethlycarbamazine of DEC and ivermectin. But when these drugs are administered at the same time with another drug, albendazole, the treatment is much more effective. Albendazole additionally kills hookworm, a very severe problem, especially in Africa.

Earlier this year, the World Health Organization's Division of Tropical Diseases announced a program to eliminate lymphatic filariasis. The cornerstone of this eradication program rests on the most generous charitable contribution in history. SmithKline Beecham, one of the world's leading healthcare companies, announced that they will provide their drug albendazole free of charge for the WHO effort. In addition to the drug donation, they are providing significant financial support to WHO to help implement the eradication program.

Yesterday, SmithKline Beecham testified before the House Committee on International Relations during a hearing on the Eradication and Elimination of Six Infectious Diseases. Dr. David Heymann, WHO's Director of Emerging and Communicable Diseases was also testifying. Dr. Heymann has been a great resource and help to me as I've learned about the growing problem of global viral and bacterial epidemics.

The hearing was worth noting, because it featured the contributions of many in the private sector to eradicate disease. Rotary International has made great progress in their effort to eliminate polio around the world. Merck & Co. has very generously, provided their drug Mectizan for the control of River Blindness, another filarial parasitic disease.

Another tireless worker on behalf of World Health, and someone who played a major role in both the Merck and SmithKline Beecham donations, is former President Jimmy Carter. He deserves our thanks and recognition for his efforts.

For the benefit of my colleagues who may not have been aware of yesterday's hearing, I'd like to submit for the RECORD the statement provided by Dr. Brian Bagnall, the Program Director for Lymphatic Filariasis for SmithKline Beecham. They are to be congratulated for their generosity and committment to world health.

The statement follows:

TESTIMONY OF BRIAN BAGNALL, PH.D, FOR SMITHKLINE BEECHAM

INTRODUCTION

My name is Dr. Brian Bagnall and I am the Program Director for Lymphatic Filariasis at SmithKline Beecham. The company is one of the world's leading healthcare corporations. We market pharmaceuticals, vaccines, overt-the-counter medicines, and health-related consumer products. We have 54,000 employees worldwide, 22,000 of them in the U.S.

WHAT IS LYMPHATIC FILARIASIS?

The most eloquent answer I can provide is to show you the following two-minute videotape which includes some comments made by President Carter at a recent company meeting. (Shows video—see appendix for text).

DRAMATIC PROGRESS ACHIEVED ON LYMPHATIC FILARIASIS ERADICATION

The dreadful disease you just saw on the video is now entirely preventable. SmithKline Beecham is committed to doing whatever it takes to help rid the world of it.

SmithKline Beecham announced an agreement this past January with the World Health Organization, through its Division of Control of Tropical Diseases, to collaborate on a global program to eliminate lymphatic filariasis. This program was established after much of the GAO report was drafted. So I'm happy to be able to provide an update on our joint program. It's a massive undertaking to attack the world's most disabling and disfiguring tropical disease.

The necessary tools and strategies of diagnosing and treating this parasitic worm infection have been developed only recently. They have proven so effective that we can now envision worldwide eradication of lymphatic filariasis by the year 2020. Please note that this target date is ten years sooner than the previous estimated date of 2030 which was mentioned by WHO in March 1997 in their submission for the GAO report. There has obviously been exceptional progress. The aim is to treat people living in at-risk areas with two antiparasitic drugs just once a year for four to six years.

One of the drugs will be albendazole, donated free of charge by SmithKline Beecham. We are planning to produce about 5 billion treatments to be used in the 73 target countries over the next 15 of so years. In addition to the drug donation, we will support the WHO efforts with financial support, management expertise and education and training help.

Together with WHO, we are currently in the planning and organizing phase of the program. We hope to begin shipping the first drug donations in the next 6 months to national Ministries of Health which have submitted elimination plans to WHO.

BREAKING THE TRANSMISSION OF LYMPHATIC FILARIASIS

The treatment program I have described, devised by WHO with the scientific and tropical medicine community, has a special mission—breaking the transmission of lymphatic filariasis. It is a truly preventive public health program aimed particularly at children and young adults who are infected with the parasite but who have not yet developed the long-term effects of the disease.

The children usually show no symptoms whatsoever. I might add that there is an additional and important benefit of the program for children and women of childbearing age—the drugs used will significantly reduce concurrent intestinal worm infections, such as hookworm, which cause anemia, stunt growth and inhibit intellectual development.

This strategic drug treatment program does not itself reverse the clinical damage of elephantiasis which results from decades of infection. Such disabled individuals will, nonetheless, benefit from an effective parallel program being recommended by WHO which focuses on skin hygiene and wound prevention.

In some respects, lymphatic filariasis can be compared to AIDS and HIV. Both diseases have a long latent period with years of symptomless infection which can then be transmitted to others. Both are now being treated with multiple drug therapy.

PRIVATE SECTOR PARTNERSHIPS FOR THE FUTURE.

I have said that SmithKline Beecham will do whatever it takes to help rid the world of this simply dreadful and now wholly preventable disease. But large organizations such as WHO and SmithKline Beecham, even with support from the likes of the World Bank, cannot do this alone. We are actively seeking to build a Coalition of Partners for Lymphatic Filariasis Elimination from the public, private and non-profit sectors which make up the worldwide community of public health resources for the developing world.

We also recognize the generous contribution Merck & Co. have made in the past 10 years with their Mectizan Donation Program for control of River Blindness, another filarial parasite disease. We are keeping in close touch with them and hope to work together in the future as part of a growing private sector coalition to fight tropical diseases.

Over the past few months we have been encouraged by the messages of support we have received since our program was announced, including many of your colleagues from the House and Senate. We, together with WHO, want to hear from anyone who wants to join the campaign. We particularly seek partners from other corporations who can help make a major difference by donating their expertise in transportation and shipping, information management, community treatment programs or the provision of other essential drugs. We will gladly speak with others from within the public and private sector about joining us in this cause. And we seek and encourage governments from the developed world to help as well.

Mr. Chairman, we applaud you and the Committee for holding this hearing because it will sound a clear call for action by both the public and private sectors to unite in eradication of these seven terrible diseases.

I would like to conclude by saying that the lymphatic filariasis elimination program complements SmithKline Beecham's much broader approach to improve health. It is our aim, through our products, services and community partnership programs, to enrich the health of everyone in the world. Our collaboration with the World Health Organization allows us to directly improve the health of at least one-fifth of the earth's population and this program will spearhead our healthcare focus within global communities into the new millennium.●

RANDOM HOUSE

● Mr. MOYNIHAN. Mr. President, some while ago it was announced that the German publishing firm of Bertelsmann had purchased Random House, the legendary New York publisher founded in the 1920s by Bennett Cerf and Donald Klopfer. The brilliance of the authors published over the years was exceeded only by that of the young editors that gave their works such superb attention. One of these was Jason Epstein. It was my great fortune to have him as an editor of three books which Random House published—''Coping: On the Practice of Government,'' ''The Politics of A Guaranteed Income,'' and, with Frederick Mosteller, ''On the Equality of Educational Opportunity.'' These were wonderfully produced, no less wonderfully edited—500 or more pages each. Thereafter, they were marketed with what I can only think of as loving care. The subjects were anything but reader friendly, as you might say, but Random House was author friendly and American letters are profoundly in its debt. Recently, in the April 6 issue of the New Yorker, The Talk of the Town began with a wonderful reminiscence by Jason Epstein of his early years at Random House. I ask that it be printed in the RECORD.

[From the New Yorker, Apr. 6, 1998]

(By Jason Epstein)

INK—CAN THE BERTELSMANN DEAL TAKE PUBLISHING BACK TO ITS ROOTS?

On the morning last week that the purchase of Random House by Bertelsmann was announced, I happened to pass the office of my colleague Bob Loomis and noticed the framed copy of the Random House interoffice phone directory for 1958 that Bob keeps on his bookshelf. The directory is about the size of a postal card and lists some ninety names, including Bob's and mine along with those of Bennett Cerf and his partner Donald Klopfer, the founders of Random House, whose offices were then on the parlor floor of the old Villard mansion, on Madison and Fiftieth. We occupied the north wing. The Archdiocese owned the central portion, which is now the entrance of the Palace Hotel, as well as the south wing, which now houses Le Cirque 2000.

Loomis and I joined Random House in the late nineteen-fifties. Though we took our publishing responsibilities seriously, we did not think of ourselves as businessmen but as caretakers of a tradition, like London tailors or collectors of Chinese porcelain. Bennett Cerf set the tone, and it was his habit to run from office to office sharing the jokes he had just heard over the phone from his Hollywood friends. Several times a day Bennett interrupted meetings between editors and authors in this fashion. Some authors were delighted. But I remember an afternoon when a baffled W.H. Auden asked if we could finish our conversation at Schrafft's across the street. This was, I believe, the last time he set foot in the Random House offices.

For me in those years, book publishing seemed more a sport than a business—a sport that required skill and strict attention to the rules, especially the rule that we had to make enough money to stay in the game. But if we wanted to make real money in a real business we knew that we should forget about afternoons with Auden, Faulkner, and Dr. Seuss and go down to Wall Street. But

this was unthinkable. It was always a pleasure when one of our books became a best-seller, but what counted more was a book that promised to become a permanent part of the culture. Random House published many books that became both.

The editor's job was different then from what it is now. Now layer upon layer of marketing specialists, sales executives, and business managers separate the editor from the bookseller. At the Villard mansion, we made these publishing decisions ourselves. For years, I would begin my day in the mailroom opening orders from booksellers, so that I had the feel of the marketplace literally at my fingertips.

That time was magical and we never expected it to end, even after Bennett and Donald took the company public, acquired Knopf, and, in 1966, sold out to RCA. By the mid-seventies the publishing industry had changed profoundly. The old downtown neighborhoods where booksellers had once rented inexpensive space and knew their customers by name had largely vanished. Readers now bought their books in mall chain stores. The bookseller in Pittsburgh or Portland whom Loomis or I might once have called to recommend a first novel had been out of business for years. Publishers now spoke to their customers through marketing specialists doing their best to fit the increasingly undifferentiated product supplied by the editors into the still less differentiated slots provided by the retail chains. Many worthy titles couldn't be fitted to these new circumstances at all and disappeared. In recent years the mall shops specializing in best-sellers have been largely replaced by so-called superstores, with much larger inventories of books. But the link between writer and marketplace which had once been the editor's function has all but vanished.

The Random House phone book is now the size of a small city directory. Loomis and I are still listed, but after forty years nearly everything else about book publishing has changed. What had been a craft is now an irrational accretion of improvisational adjustments to historic accidents, a largely fossilized organism that can no longer be deconstructed. Its future depends on how well its remaining energies can be directed toward new technological possibilities.

I am delighted to say that these possibilities already exist. The widespread distribution of printed books via the Internet is a reality a mere two and a half years after the appearance of Amazon.com. The eventual shape of Internet bookselling is not yet fully evident, but it is evident enough to foreshadow a much more direct—and economical—link between writer and reader than has existed in modern times. The choice of a career in book publishing may seem bleak at the moment, but if I were starting out today I might give it a try. To publish a book that may make the world a little more intelligible or decent can be almost as satisfying as writing one. And soon it might just be possible to carry on this work with even greater confidence than Loomis and I shared forty years ago.●

HONORING JOHN E. CORRIGAN

● Mr. DODD. Mr. President, I rise today to honor a man who has worked tirelessly throughout his career to create economic opportunities in the northeastern region of this country: John E. Corrigan. Known by his friends as Jack, Mr. Corrigan has served for 23 years as Regional Director of the U.S. Commerce Department's Economic Development Administration. On Tuesday, May 26, 1998, in my home state of Connecticut, friends, family and admirers of this remarkable man will gather to celebrate his retirement after nearly three decades of service to his country as a public official. This celebration, sponsored by the Connecticut chapter of the Northeastern Economic Development Association, will be a fitting tribute to an outstanding public servant.

Jack Corrigan makes things happen. Throughout his career with the EDA, he worked to make dreams a reality. His success is evident across the Northeast where he contributed to the creation of thousands of jobs and economic opportunities during his career. Indeed, Mr. Corrigan brought new meaning to the term economic development. He looked not only at specific applications, but enjoyed the foresight and vision to appreciate the domino effect which federal assistance could have on entire towns, cities, and regions.

As Regional Director of the EDA, Jack Corrigan administered a multi-million dollar grant program. These resources were allocated throughout the region under his watchful eye, always ensuring that the money would provide an economic stimulus for many individuals and businesses. Jack's gentle style, measured approach, and good judgement helped many people to turn their dreams into reality.

In addition to his service as Regional Director, Jack spent three years as Director of the Office of Civil Rights for the EDA. In this position, he distinguished himself as an effective advocate for civil rights and received the silver medal of the Department of Commerce for his outstanding performance in this field.

From 1982 to 1985, Mr. Corrigan took a temporary reprieve from his Regional Director post to serve as Deputy Assistant Secretary for Operations of the EDA. In this position, he was responsible for the agency's grant program and for coordinating the related activities of the agency's six regional offices.

Jack Corrigan will be deeply missed at the Economic Development Administration and throughout the northeast. His legacy, however, will continue as his exemplary public service is remembered and revered for years to come. I applaud the lifetime achievements of a special man and wish him continued success in all of his future endeavors.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 602, 604, 607, 608, 609, 611, 613, 614 and all nominations placed on the Secretary's desk in the Foreign Service. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jeanne Hurley Simon, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2002. (Reappointment)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

William James Ivey, of Tennessee, to be Chairperson of the National Endowment for the Arts for a term of four years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2004. (Reappointment)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Thomas Ehrlich, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years. (Reappointment)

Dorothy A. Johnson, of Michigan, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years, vice Walter H. Shorenstein, term expired.

SMALL BUSINESS ADMINISTRATION

Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.

DEPARTMENT OF STATE

William Joseph Burns, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

Ryan Clark Crocker, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Alexander Almasov, and ending James Hammond Williams, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 1998

Foreign Service nominations beginning Joan E. La Rosa, and ending Morton J. Holbrook, III, which nominations were received by the Senate and appeared in the Congressional Record of March 26, 1998

Foreign Service nominations beginning Michael Farbman, and ending Mary C. Pendleton, which nominations were received by the Senate and appeared in the Congressional Record of April 22, 1998

NOMINATION OF WILLIAM J. IVEY

Mr. FRIST. Mr. President, on May 13, 1998, the Senate Labor and Human Resources Committee unanimously supported Bill Ivey's nomination to be the Chairman of the National Endowment

for the Arts (NEA). As a member of this committee, and as a Tennessean, I believe Bill Ivey will bring a much needed, new voice to this agency.

Many people in my home State have viewed the NEA as an elitist agency. Bill Ivey brings a new vision with a perspective of the real world. In fact, a newspaper in Tennessee noted that the ''Country Music Foundation director would provide 'Heart of America' leadership.''

Bill Ivey has been the Director of the Country Music Foundation in Nashville, Tennessee since 1971. He has played an integral role in the Nashville music community. He has taught at Vanderbilt University's Blair School of Music and has written a variety of essays on America's musical traditions.

The National Endowment for the Arts has come under increased scrutiny in recent years. Both the American people and Congress have questioned its stewardship of the taxpayers' dollar. Through committee work and the appropriations process, many innovative reform options have been considered, but few have been adopted. Bill Ivey offers the prospect of a fresh start for the National Endowment for the Arts so that all Americans will have pride and a stake in its activities.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

OFFICIAL SITE OF NATIONAL EMERGENCY MEDICAL SERVICES MEMORIAL SERVICE

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 171, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 171) declaring the city of Roanoke, Virginia, to be the official site of the National Emergency Medical Services Memorial Service.

The Senate proceeded to consider the concurrent resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 171) was agreed to.

SENSE OF CONGRESS REGARDING EUROPEAN UNION

Mr. DEWINE. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. Con. Res. 73 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 73) expressing the sense of Congress that the European Union is unfairly restricting the importation of United States agriculture products and the elimination of such restrictions should be a top priority in trade negotiations with the European Union.

The Senate proceeded to consider the concurrent resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 73) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 73

Whereas on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

Whereas increased United States agricultural exports are critical to the future of the farm, rural, and overall economy of the United States;

Whereas the opportunities for increased agricultural exports are undermined by the unfair subsidies provided by trading partners of the United States, and by various tariff and nontariff trade barriers imposed on highly-competitive United States agricultural products;

Whereas United States agricultural exports reached a record-level $60,000,000,000 in 1996 compared to a total United States merchandise trade deficit of $170,000,000,000;

Whereas the United States is currently engaged in a number of outstanding trade disputes with the European Union regarding agriculture matters and the disputes involve the most intractable issues between the United States and the European Union;

Whereas the outstanding trade disputes include the failure to finalize a veterinary equivalency program, which jeopardizes an estimated $3,000,000,000 in trade in livestock products between the United States and the European Union;

Whereas the World Trade Organization has ruled that the European Union must allow the importation of beef with growth hormones produced in the United States;

Whereas the European Union has yet to fulfill its commitment under the Agreement on Application of Sanitary and Phytosanitary Measures reached as part of the General Agreement on Tariffs and Trade;

Whereas the European Union has promulgated regulations regarding the use of ''specified risk materials'' for livestock products which have a disputed scientific basis and which serve to impede the importation of United States livestock products despite the fact that no cases of bovine spongisorm encephalopathy (mad cow disease) have been documented in the United States;

Whereas the European Union has hindered trade in products grown with the benefit of biogenetics based on claims that also have a disputed scientific basis;

Whereas these barriers to biogenetic trade could have a profound negative impact on agricultural trade in the long run; and

Whereas there are also continuing disputes regarding European Union subsidies for dairy, wheat gluten, and canned fruits: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the European Union unfairly restricts the importation of United States agricultural products;

(2) the restrictions imposed on United States agricultural exports to the European Union are the most vexing problems facing United States exporters in Europe;

(3) the elimination of restrictions imposed on United States agricultural exports should be a top priority of any current or future trade negotiations between the United States and the European Union; and

(4) the United States Trade Representative should not engage in any trade negotiations with the European Union that undermines the ability of the United States to achieve the elimination of unfair restrictions imposed upon United States agricultural exports to the European Union.

EXPRESSING SENSE OF SENATE REGARDING EUROPEAN UNION

Mr. DEWINE. Mr. President, I ask unanimous consent that the Finance Committee be discharged from consideration of S. Res. 232 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 232) to express the sense of the Senate that the European Union should waive the penalty for failure to use restitution subsidies for barley to the United States and ensure that restitution or other subsidies are not used for similar sales in the United States and that the President, the United States Trade Representative, and the Secretary of Agriculture should conduct an investigation of and report on the sale and subsidies.

The Senate proceeded to consider the resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 232) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 232

Whereas, in an unprecedented sale, the European Union entered into a contract with a United States buyer to sell heavily subsidized European barley to the United States;

Whereas the sale of almost 1,400,000 bushels (30,000 metric tons) of feed barley was shipped from Finland to Stockton, California;

Whereas news of the sale depressed feed barley prices in the California feed barley market;

Whereas, since the market sets national pricing patterns for both feed and malting barley, the sale would mean enormous market losses for barley producers throughout the United States, at a time when the United States barley producers are already suffering from low prices;

Whereas the European restitution subsidies for this barley amounts to $1.11 per bushel ($51 per metric ton);

Whereas the price-depressing effects of this one sale will continue to adversely affect market prices for at least a 9-month period as this grain moves through the United States marketing system;

Whereas this shipment is part of about 2.1 million metric tons of European feed barley that have been approved for restitution subsidies by the European Union this year;

Whereas the availability of the additional subsidized European barley in the international market not only artificially depressed market prices, but also threatens to open new import channels into the United States;

Whereas, as the world's largest feed grain producer and the world's largest exporter of feed grains, the United States does not require imported feed grains;

Whereas, at the same time that subsidized European barley is being imported into the United States, some United States feed grains are prevented from entering European markets under European Union food regulations;

Whereas United States barley growers continue to suffer the negative impacts of the sale, regardless of whether the subsidized European barley was originally targeted for sale into the United States and whether the subsidies comply with the letter of current World Trade Organization export subsidy rules; and

Whereas the sale not only undermines the intent and the spirit of free trade agreements and negotiations, it also moves away from the goals of level playing fields and fairness in trade relationships: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF SENATE ON EXPORT OF EUROPEAN BARLEY TO THE UNITED STATES.

It is sense of the Senate that—

(1) the European Union should—

(A) take immediate steps to waive the penalty for failure to use restitution subsidies for barley exported to the United States; and

(B) establish procedures to ensure that restitution and other subsidies are not used for sales of agricultural commodities to the United States or other countries of North America;

(2) the President of the United States, the United States Trade Representative, and the Secretary of Agriculture should immediately consult with the European Union regarding the sale of European feed barley to the United States in order to avoid any future sale of any European barley to the United States that is based on restitution or other subsidies; and

(3) not later than 60 days after approval of this resolution, the United States Trade Representative and the Secretary of Agriculture should report to Congress on—

(A) the terms and conditions of the sale of European barley to the United States;

(B) the results of the consultations under paragraph (2);

(C) other steps that are being taken or will be taken to address to such situations in the future; and

(D) any additional authorities that may be necessary to carry out subparagraphs (B) and (C).

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–46

Mr. DEWINE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 21, 1998, by the President of the United States: Protocol to Extradition Treaty with Mexico (Treaty Document No. 105–46).

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Extradition Treaty Between the United States of America and the United Mexican States of May 4, 1978, signed at Washington on November 13, 1997.

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Protocol. As the report explains, the Protocol will not require implementing legislation.

This Protocol will, upon entry into force, enhance cooperation between the law enforcement communities of both countries. The Protocol incorporates into the 1978 Extradition Treaty with Mexico a provision on temporary surrender of persons that is a standard provision in more recent U.S. bilateral extradition treaties.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 21, 1998.*

AUTHORIZING TESTIMONY AND DOCUMENT PRODUCTION AND REPRESENTATION OF SENATE EMPLOYEES.

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 233, submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 233) to authorize testimony and document production and representation of Senate employees in People v. James Eugene Arenas.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the case of People versus James Eugene Arenas is a criminal case pending in the Municipal Court for Fresno, California. The defendant has been charged with threatening to kill a state official and to blow up a county courthouse.

The California Attorney General, who is prosecuting the case, has subpoenaed an employee on Senator BARBARA BOXER's staff to testify at a preliminary hearing in this case. The remarks underlying these charges were made by the defendant in a conversation with the Senate staffer following a referral from the Senator's office to state authorities of a casework request from the defendant.

This resolution would authorize Senator BOXER's staff to testify and produce relevant documents, with representation from the Senate Legal Counsel.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement of explanation appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 233) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 233

Whereas, in the case of *People* v. *James Eugene Arenas,* Case No. 98F2403, pending in the Municipal Court for Fresno, California, testimony and document production have been requested from Kelly Gill, an employee on the staff of Senator Barbara Boxer;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony or the production of documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Kelly Gill, and any other employee from whom testimony or document production may be required, are authorized to testify and produce documents in the case of *People* v. *James Eugene Arenas,* except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Kelly Gill, and any other employee from whom testimony or document production may be required, in connection with *People* v. *James Eugene Arenas.*

HONORING STUART BALDERSON

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 234 submitted earlier today by Senator STEVENS and Senator LOTT and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 234) to honor Stuart Balderson.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 234) was agreed to as follows:

S. RES. 234

Resolved, That Stuart Balderson is named Financial Clerk Emeritus of the United States Senate.

SEC. 2. That Rule XXIII is amended by adding after ''Parliamentarian Emeritus'' the following: ''and the Financial Clerk Emeritus.''

ORDERS FOR FRIDAY, MAY 22, 1998

Mr. DEWINE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 22. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin 1 hour for routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DEWINE. Mr. President, for the information of all Senators, tomorrow morning at 9:30, the Senate will begin 1 hour for morning business. At 10:30, the Senate will begin the Iran sanctions bill, under a total time of 3 hours. Also, the Senate will consider the ISTEA conference report. Therefore, votes could occur during Friday's session in an effort to conclude several other items prior to the Memorial Day recess.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:10 p.m., adjourned until Friday, May 22, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 21, 1998:

THE JUDICIARY

RICHARD M. BERMAN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE KEVIN THOMAS DUFFY, RETIRED.

DONOVAN W. FRANK, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA VICE DAVID S. DOTY, RETIRED.

COLLEEN MCMAHON, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE JOHN F. KEENAN, RETIRED.

WILLIAM H. PAULEY III, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE PETER K. LEISURE, RETIRED.

REFORM BOARD (AMTRAK)

MICHAEL S. DUKAKIS, OF MASSACHUSETTS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

SYLVIA DE LEON, OF TEXAS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

LINWOOD HOLTON, OF VIRGINIA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

AMY M. ROSEN, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

JOHN ROBERT SMITH, OF MISSISSIPPI, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

TOMMY G. THOMPSON, OF WISCONSIN, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate May 21, 1998:

DEPARTMENT OF DEFENSE

DAVID R. OLIVER, OF IDAHO, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JEANNE HURLEY SIMON, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2002.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WILLIAM JAMES IVEY, OF TENNESSEE, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR A TERM OF FOUR YEARS.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ROBERT H. BEATTY, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2004.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

THOMAS EHRLICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF FIVE YEARS.

DOROTHY A. JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF FIVE YEARS.

SMALL BUSINESS ADMINISTRATION

FRED P. HOCHBERG, OF NEW YORK, TO BE DEPUTY ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

DEPARTMENT OF STATE

WILLIAM JOSEPH BURNS, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HASHEMITE KINGDOM OF JORDAN.

RYAN CLARK CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING ALEXANDER ALMASOV, AND ENDING JAMES HAMMOND WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 1998.

FOREIGN SERVICE NOMINATIONS BEGINNING JOAN E. LA ROSA, AND ENDING MORTON J. HOLBROOK, III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 26, 1998.

FOREIGN SERVICE NOMINATIONS BEGINNING MICHAEL FARBMAN, AND ENDING MARY C. PENDLETON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 22, 1998.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE FIRE SAFE CIGARETTE ACT OF 1998

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MOAKLEY. Mr. Speaker. Today, I am introducing the Fire Safe Cigarette Act of 1998, which would direct the Consumer Product Safety Commission to promulgate a fire safety standard for cigarettes.

Each year thousands of innocent people are killed, maimed or permanently disfigured by carelessly discarded cigarettes. Under a typical cigarette fire scenario, the smoker falls asleep in a bed or sofa with a burning cigarette, the ash smolders for hours, then bursts into flames in the middle of the night—a time when everyone is least prepared.

Cigarette related fires are not rare or freak occurrences. In 1995, 1,122 individuals perished and 2,667 individuals were seriously injured from these fires. One third of the victims were innocent children. Furthermore, cigarette related fires caused more than $500 million in property damage in 1995.

I first became involved with this issue when a family of seven perished in a cigarette related fire in my Congressional District. Five children—all under the age of ten—were burned to death. This tragedy occurred on Memorial Day Weekend in 1979.

Now, almost twenty years later, I am still fighting to give the CPSC that authority to promulgate a fire safety standard for cigarettes. Two technical bills, the Cigarette Safety Act and the Fire Safe Cigarette Act, have been passed and enacted into law.

As a result of the legislation, we now know that a cigarette can be slightly altered to significantly reduce the number of cigarette related fires. The key characteristics of a fire safe cigarette are: a filter tip, a smaller diameter, less porous paper, more expandable tobacco, and no citrate additive. By simply modifying these characteristics, cigarette manufacturers could significantly reduce the number of cigarettes related fires each year.

All the technical work required to develop a fire safety standard is completed. The CPSC is ready and willing to do it. We just need to give the CPSC the authority to promulgate a fire safety standard and the Fire Safe Cigarette Act of 1998 does just that.

After twenty years of work on this issue, I am frustrated that the victims of cigarette related fires continue to be the innocent. Too often the victim is the child asleep in the upstairs bedroom, or the elderly neighbor in the apartment next door. Study after study has proven that it is technically and economically feasible to develop a fire safe cigarette, clearly Congress needs to weigh in and require cigarette manufacturers to develop fire safe cigarettes. No more children should fall victim to cigarette related fires that are preventable.

Let's pass the Fire Safe Cigarette Act of 1998 and save thousands of innocent children and elderly individuals from perishing in cigarette related fires.

A SPECIAL TRIBUTE TO MIKE AND JOELLA KERSCHNER ON THE OCCASION OF THEIR TWENTY-FIFTH WEDDING ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding couple from Ohio's Fifth Congressional District, Mike and Joella Kerschner. I extend my best wishes to Mike and Joella, who will be celebrating their Twenty-Fifth Wedding Anniversary on Saturday, May 23, 1998.

Mr. Speaker, Mike and Joella exemplify what a loving, strong, healthy marriage should be. For as long as I have known them, Mike and Joella have been the best of friends and the closest of companions. Through their marriage vows, they have dedicated their lives to each other, to share in the joy of marriage. As we celebrate the Twenty-Fifth Wedding Anniversary of Mike and Joella's wedding, let us reflect on their lives, their love for one another, and wish them a happy and healthy marriage in the years to come.

Mr. Speaker, as Mike and Joella Kerschner celebrate this very special occasion, I wish them, their children, Karl, John, and Chris, and all of their families many years of love and happiness. I hope my colleagues will join me in congratulating Mike and Joella Kerschner on their Twenty-Fifth Wedding Anniversary, and in wishing them the very best in the future.

THANK YOU, EDWIN KORN, JR.

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. BARCIA. Mr. Speaker, our communities grow and succeed when there is strength in community and strong leaders. I rise today to pay tribute to one individual, Edwin Korn, Jr., who has been the backbone of Port Austin for almost 40 years, serving 36 of those years as the President of the Port Austin Village Council.

Edwin was born in Detroit and moved to Port Austin in 1950. He left Port Austin only twice; once to attend college and again to serve his country in the Army. Since then, he has been a strong presence in Port Austin and an important leader of the community.

Appointed clerk in 1962, he served one term as Trustee before becoming President. He has overseen some amazing changes in Port Austin including the switch from well water to lake water and the construction of a world-class waste waster facility. Port Austin now has the distinction of having the best tasting water in the state. It is no wonder that other surrounding communities would like to tie into the Port Austin system. Although he will not seek reelection, I am sure he will remain a strong influence and continue to support efforts to improve the lives of the citizens of Port Austin and Huron County.

Edwin is astutely optimistic that there will be strong development in the Port Austin area over the next ten years and he plans to continue to remain a key player. His leadership in brining a major breakwall and harbor development effort to Port Austin goes directly to the recognition that this is a leading fishing, boating, and recreation destination in Michigan.

He could not have had such a successful career and fulfilled life without the support of his wife, Doreen, and their four children, 11 grandchildren and 1 great grandchild. His loyalty and dedication is evident through his job at Mayes IGA Foodliner where he has worked for 40 years and is now manager.

Mr. Speaker, if we want to teach our citizens to be driven by the concept of community and family, we need only introduce them to individuals like Edwin Korn. I ask you and all of our colleagues to join me in wishing Edwin Korn the best of luck in all his future endeavors.

CONGRATULATING ALBERT COURNOYER ON 40 YEARS OF SERVICE AT THE PUBLICK HOUSE HISTORIC INN

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged today to honor one of my constituents, Mr. Albert Cournoyer, as he celebrates his 40th year of hard work and dedicated service to the Publick House Historic Inn in Sturbridge, Massachusetts.

The Publick House has been successfully operating and thriving in Sturbridge for 227 years. I have to think that part of the reason for the Inn's long and prosperous presence in this area of Massachusetts is due to the work of fine employees such as Albert Cournoyer.

Mr. Cournoyer first began assuming responsibility at the Publick House in 1958, at the young age of 14. His work ethic and positive attitude were quickly manifested and noticed as he performed the duties of handyman and dishwasher. Mr. Cournoyer's commitment and skill allowed him to move on from these jobs to other facets of the Inn's operations so that by age 21, he was promoted to Head Chef.

Albert Cournoyer's career in the culinary arena continued to grow until he was made Executive Chef and later to the point where he was entrusted with the duty of overseeing food service operations at Old Sturbridge Village.

One of Mr. Cournoyer's greatest achievements, the fruits of which we witness today,

came when he served in the capacity of Director of Maintenance in the early 1980's. At this time he directed and supervised all renovations and construction to the Country Motor Lodge and adjoining restaurant.

In June of 1997, however, Albert Cournoyer's accomplishments, experience, consistent maintenance of the highest quality standards, and hospitable demeanor received their crowning recognition in an announcement which named him the newly appointed Innkeeper of the Publick House. Based on Mr. Cournoyer's record of excellence it came as no surprise that such a worthy candidate received the Innkeeper position.

The qualities that Albert Cournoyer has exhibited for 40 years and continues to reveal in his work at the Publick House are those that all citizens should strive to emulate. For the Publick House's frequent patrons, celebrants of special occasions, and travelers stopping off at this landmark, Albert Cournoyer, for 40 years, has been making their experiences both memorable and enjoyable. I am fortunate to serve such an outstanding citizen and I am proud and honored to congratulate him today.

THE MEDICARE CRITICAL NEED GME PROTECTION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. STARK. Mr. Speaker, I rise today to introduce ''The Medicare Critical Need GME Protection Act of 1998.'' This important legislation seeks to protect our nation against the depletion of health care professionals that are trained to appropriately treat costly and deadly illnesses.

Under current law, the Medicare program provides reimbursement to hospitals for the direct costs of graduate medical education training. That reimbursement is designed to cover the direct training costs of residents in their initial residency training period. However, if a resident decides to proceed with further training in a specialty or subspecialty, a hospital's reimbursement is cut to half (50%) for that additional training.

The rationale for this policy is strong. In general, we have an oversupply of specialty physicians in our country and a real need to increase the number of primary care providers. By reducing the reimbursement for specialty training, the Medicare program has promoted increases in primary care training rather than specialty positions.

I agree with this policy. However, as is often the case, there are always exceptions to the rule. We do not want to hinder training of particular specialties or subspecialties if there is strong evidence that there is a serious shortage of those particular physicians. That is why I am introducing The Medicare Critical Need GME Protection Act.

To provide an example of a current subspecialty facing serious shortages of professionals, we can look at nephrology. Between 1986–1995, the number of patients with End Stage Renal Disease (ESRD) has more than doubled. At present, more than 40 million Americans die from kidney failure or its complications each year. In 1998, the estimated cost to treat ESRD will exceed $12 billion. However, current data indicates that only 51.8% of today's nephrologists will still be in practice in the year 2010.

Most primary care physicians are not trained to treat the complex multi-symptom medical problems typically seen in ESRD and are unfamiliar with particular medications and technology prescribed for such patients. The decreasing supply of nephrologists, coupled with an expanding population of renal patients, puts the health of our nation at risk.

The Medicare Critical Need GME Protection Act provides a tool to help combat such shortages of qualified professionals. The bill would simply provide the Secretary of Health and Human Services with the flexibility to continue full-funding for a specialty or subspecialty training program if there is evidence that the program has a current shortage, or faces an imminent shortage, of physicians to meet the needs of our health care system. The Secretary would grant this exception only for a limited number of years. The Secretary would have complete control of the exception process. Programs would present evidence of the shortage and she could agree or disagree with the analysis. Nothing in this bill would require the Secretary to take any action whatsoever.

The bill also includes protections for budget neutrality. If the Secretary approves a specialty or subspecialty training program for full-funding under this bill, the Secretary must adjust direct GME payments to ensure that no additional funds are spent.

Again, The Medicare Critical Need GME Protection Act does nothing more than provide limited flexibility to the Secretary of Health and Human Services to ensure that we are training the health care professionals that meet our nation's needs.

I would encourage my colleagues to join me in support of this important legislation. By giving the Secretary the flexibility to allocate funds to attract and train professionals in certain ''at risk'' fields of medicine, we will significantly improve patient care and lower long term health care costs.

A BLUE RIBBON SCHOOL

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. WELLER. Mr. Speaker, I rise today to honor the selection of Warren P. Shepherd Junior High School as a Blue Ribbon School.

Located in Ottawa, Illinois, Shepherd is one of only 166 secondary schools in the nation presented with this prestigious award by the United States Department of Education. The Blue Ribbon Award is sought after by thousands of schools across the country.

Blue Ribbon status is bestowed upon schools with qualities including strong leadership, a clear vision and sense of mission, high quality teaching, challenging and up-to-date curriculum, and solid evidence of family involvement. These are the schools that best prepare children for the challenges they will face in the future. Blue Ribbon schools are also effective in meeting local state and national goals.

Led by Principal Michael Bannister, Shepherd Junior High School clearly has the characteristics of a Blue Ribbon school. As a seventh and eighth grade junior high school, Shepherd strives to maintain excellence, effectiveness and equity in the education of young people in the ''middle grades.'' This school of 513 students serves both regular and special education students. Shepherd was recognized for its ability to combine these two populations through a successful peer partnering program.

As with other Blue Ribbon schools, Shepherd prepares our young people for tomorrow's challenges through active learning programs. Shepherd's hands-on learning philosophy is perhaps best evidenced by its science curriculum. After undergoing several major technology-related renovations last year, Shepherd has become a technology leader in north central Illinois. At least one new computer with multimedia capabilities and Internet access has been installed in each classroom. In addition, clusters of up to six new computers were placed in four locations of the building, and a Special Education computer lab was installed.

Among Shepherd's strong points are an integrated curriculum designed by cross-curricular grade level teams, a commitment to the development of skills in the area of language arts and exemplary students, faculty and administrators. These and many other accomplishments led qualified Shepherd for Blue Ribbon status.

Mr. Speaker, today I recognize and honor Shepherd Junior High School as a recipient of the prestigious Blue Ribbon Schools Award. Shepherd exemplifies the standard of excellence to which all junior high schools should be held. I am proud to represent a district that includes schools of Blue-Ribbon caliber.

CONGRATULATIONS TO JOHN KELLY

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. DEGETTE. Mr. Speaker, I rise today to commend the career of one of the longest serving National Officers of the American Postal Workers Union (APWU), AFL–CIO, John Kelly, who has announced his retirement after a most distinguished career representing Union members.

John Kelly was a native of the Philadelphia, PA area, but came to the Denver area when he was four years old. He was a graduate of North High School and began his career with the United States Post Office on September 30, 1962, eight years before Congress created the U.S. Postal Service.

John's sterling union career began as a steward, later as secretary, and finally, as President of the Denver local. In 1971, five postal unions merged to form the APWU, and John became a full-time union officer. As the National Vice President for APWU, John served on the National Executive Board, the highest governing body of the Union. Today, he is the senior business agent for the APWU, an organization which has grown to include business agents nationwide.

During his tenure with APWU, John was well-known not only for his skills at arbitration but for his ability to help the members understand the very technical language of their contract with the Postal Service. His expertise

was so thorough that the APWU used his services in national contract negotiations and numerous other special projects that affected the union. He has promoted union advocacy and educated colleagues on how to interpret the Collective Bargaining Agreement and the National Labor Relations Act.

For 28 years John has represented the APWU in the Denver Region, which includes the states of Colorado, Arizona, New Mexico, Utah, and Wyoming. John was one of the principal architects of the five-state Denver Regional Assembly, an entity that flourishes today. He is so highly respected that no one has run against him in the National Election in more than 20 years.

Again, I take this opportunity to thank John Kelly for his years of service to the APWU and want to wish him and his family the best in retirement.

HONORING BLUE RIBBON SCHOOLS IN SAN DIEGO COUNTY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. CUNNINGHAM. Mr. Speaker, I rise today to honor three high schools in San Diego County which have now had their excellence recognized and proclaimed as National Blue Ribbon Schools.

Torrey Pines High School, in Encinitas, California, in my 51st Congressional District, part of the San Diego Union High School District, principal Marie Grey, and superintendent Dr. William Berrier.

Coronado High School, in Coronado, California, part of the Coronado Unified School District, principal Dr. Jeffrey David, and superintendent Dr. Rene Townsend.

University of San Diego High School, in Linda Vista, California, principal Dr. Richard Kelly.

Let the permanent RECORD of the Congress of the United States show that these Blue Ribbon Schools display the qualities of excellence that are necessary to prepare our young people for the 21st Century.

IN HONOR OF FATHER ALBERT JAMES EVANS, SS.CC.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Father Albert Evans who celebrates his Fiftieth Jubilee Mass at Our Lady of Good Counsel on May 31, 1998.

Father Al, as he is known to friends, was born and raised in Cleveland, Ohio. Graduating from James Ford Rhodes High School in 1932, Father Al joined the unemployed masses of the Great Depression. For the next ten years, he would hold a variety of odd jobs, working as an orderly in Cleveland City Hospital, a factory worker, a dock worker, and a truck driver.

In 1939, Father Al enrolled in Saint Mary's College in Kentucky. It was while studying at Saint Mary's that Father Al found his calling, applying for admission to the Congregation of the Sacred Hearts of Jesus and Mary. He began his studies for the priesthood three years later in Washington, DC and was ordained in 1948.

Upon his ordination, Father Al received an obedience in Japan. For the next twenty years, he presided over a little mission north of Tokyo. His work in Japan ended after he was diagnosed with lung cancer, resulting in the removal of a portion of his left lung. Father Albert recovered upon his return to the United States, dedicating himself to mission promotion.

My fellow colleagues, let us recognize Father Al's fifty years of service to the world's underprivileged and congratulate him as he celebrates his Fiftieth Jubilee Mass.

A SPECIAL TRIBUTE TO JESSICA L. CHAPMAN ON HER APPOINTMENT TO ATTEND THE U.S. MILITARY ACADEMY AT WEST POINT, NY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to a truly outstanding young lady from Ohio's Fifth Congressional District, Jessica L. Chapman. Jessica recently accepted her appointment to attend the United States Military Academy at West Point, New York, where she will join the incoming Cadet Class of 2002.

Jessica, who is from Bowling Green, Ohio, will soon be graduating from Bowling Green High School, and will begin preparing for one of the most challenging, rewarding, and educational experiences of her life: her four-year commitment at West Point.

While attending Bowling Green High School, Jessica has proven herself to be an exceptional student and an outstanding student-athlete. In the classroom, Jessica's accomplishments are unparalleled as she has attained a perfect 4.0 grade point average, placing her first in her class of 290 students.

In addition to her academic achievements, Jessica has performed very well on the fields of competition. Jessica was the Co-Captain of the Varsity Cross Country Team and the Varsity Volleyball Team. She was also a member of the Varsity Track and Varsity Basketball Teams. Jessica was active in the National Honor Society, German Club, and attended the United States Air Force Academy's Summer Science Seminar.

Mr. Speaker, each year, I have the opportunity to nominate outstanding young men and women to the nation's military academies. I am pleased that Jessica has accepted her appointment and will be joining West Point's Class of 2002. I would urge my colleagues to stand and join me in paying special tribute to Jessica Chapman. I am sure she will do very well at West Point, and in all of her future endeavors.

IN HONOR OF PRINCIPAL MARY S. MURPHY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to show my appreciation for one of our finest educators and administrators, Ms. Mary Murphy, who is moving on after sixteen years of invaluable service to Our Lady of Good Counsel High School. She served fourteen years as an English teacher and Senior advisor, and three years as principal.

Mary Murphy has inspired hundreds of her pupils to become outstanding students who went on to successful careers. But perhaps more importantly, she emphasized to her students the importance of being kind and considerate individuals.

Ms. Murphy is compassionate, caring, funny and a good listener. These qualities allowed her to capture students' attention and become an important influence in their lives.

I salute Principal Mary Murphy for being an excellent educator, leader, and role model. She will be leaving Our Lady of Good Counsel High School, but her work will always stay in her students' hearts and minds.

JASON ESPIRITU, GUAM'S NATIONAL GEOGRAPHY BEE FINALIST

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. UNDERWOOD. Mr. Speaker, for the last couple of days, Washington, D.C. played host to 57 state-level winners from all over America as they vie to win the 1998 National Geography Bee. Celebrating its 10th anniversary, the National Geography Bee was developed in response to concern about lack of geographic knowledge among young people in the United States. The finalists range from ages 11 to 15. Each rose above a field of about 5 million students in order to earn a place in the 10th annual national championships. The finals were held on May 19th and 20th hosted for the 10th consecutive year by Jeopardy's Alex Trebek.

The state level winners represent all 50 states, the District of Columbia, the five U.S. territories—American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands—and the Department of Defense Schools. Twelve of the 57 students are repeat state winners. Ten others competed in the 1997 finals. Among them, Jason Espiritu, is from my home Island of Guam and I am proud to announce that he finished in the top ten.

Jason, a seventh grade student at St. Anthony's School in Tamuning, is the son of Virgilio and Amelia Espiritu. As you may have guessed, his favorite subjects in school are Social Studies and Geography. To prepare for the competition he employed a number of reference materials such as atlases, almanacs, news magazines and National Geographic videos. His fine performance could be contributed to preparation and his every day habits of

reading newspapers and keeping up with current events. The facts that he is hearing-impaired never prevented Jason from doing well and making Guam proud.

On behalf of the people of Guam, I congratulate Jason Espiritu on his very fine performance. We commend his efforts towards excellence and expect no less from him in the years to come.

LET'S HELP OUR NATIONAL PARKS AND THE AMERICAN TAXPAYER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MILLER of California. Mr. Speaker, today I am introducing legislation, with the cosponsorship of several of my colleagues, to provide a fair return to the public for the commercial use of our national parks and to use those funds to maintain and enhance park resources and visitor services.

The National Park Service is being hamstrung in the changes it can make to its concessions policies by the provisions of the outdated 1965 Concessions Policy Act. At a time when families, senior citizens, and other recreational users visiting our parks are required to pay higher fees, the same is not being required of commercial operators who profit from our national parks. For far too long, the public has not received a fair return on the commercial revenues generated in our national parks. It's time to end this situation.

''The National Park Service Concession Policy Reform Act of 1998'' is the successor of the NPS concessions reform legislation of the 103rd Congress, which, although it passed the House in 1994 by an overwhelming vote of 386 to 30 and the Senate by an equally overwhelming vote of 90 to 9, never was enacted into law. The provisions of my bill have been the subject of numerous hearings over the years and addresses problems identified in GAO and Inspector General reports. It is a proposal that has had the support of the Administration, environmental organizations, and taxpayer watchdog groups. Similar legislation has been introduced in the Senate by Senator Dale Bumpers.

The legislation provides meaningful competition for NPS contracts to provide goods and services to park visitors. The bill eliminates certain preferential rights of renewal and phases out possessory interest, both of which have been major barriers to competition. In addition, it provides that the funds generated from concession contracts will stay in the parks to benefit park resources and visitor services.

If we want to increase the return to the public and enhance park resources while still making available to visitors a quality concessions service, we need to install a competitive process instead of maintaining advantages for select commercial operators. The National Park Service Concession Policy Reform Act achieves these purposes. I hope Members will add their support to this legislation.

IN HONOR OF ANTHONY DIBIASIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Anthony ''Tony'' DiBiasio for his tireless efforts on behalf of the school children of Lakewood, Ohio for the past fifty years.

After serving his country in the U.S. Air Force during the Second World War, Tony went on to receive a B.S. and Masters from Ohio University and continued doctoral studies at Western Reserve University. For fifty years, ''Mr. D.'' has demonstrated this love of learning as a teacher, administrator, coach, and currently, as Executive Director of the Lakewood Public Schools Foundation. He has also served as president of both the Lakewood Education Association and the Lakewood PTA.

In addition to his work with Lakewood schools, Tony has also served as Director of Project Read, conducting reading workshops at colleges and universities throughout the country. He has also sat on the Board of Directors of Keep America Beautiful and was a valued member of the Lakewood Kiwanis Club. Tony has been published in a number of professional journals.

Having made a significant contribution to his community, it comes as little surprise that Tony had made something of a ''name'' for himself. The street in front of Lakewood High School has been dubbed Tony DiBiasio Square. A scholarship fund at the high school and the Fitness Center at the Lakewood YMCA also bear his name. Tony's service towards others has been honored by the American Legion and the American Red Cross.

My fellow colleagues, let us join the entire Lakewood community in thanking Anthony DiBiasio for his commitment to the young people of Lakewood, Ohio. May his many years of service to community and country serve as an example to us all.

SALUTE TO MAJOR NED SWINNEY

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. THOMPSON. Mr. Speaker, I rise today to honor the late Major Ned Swinney, who was born January 13, 1938, in Jefferson County, MS to the late Jim and Leola Swinney.

Major Swinney departed this life on May 10, 1998, but he left a proud legacy as a husband, father, and law enforcement officer. He attended the Jackson public schools and received an associate degree from the Baptist Seminary of Mississippi.

Major Swinney began his career as a law enforcement officer in 1956 as a military police officer in the United States Army. He began his 25-year-long association with the Hinds County Sheriff's Department in July 1972 where he served as Deputy Sheriff, Staff Seargent, Lieutenant, Captain, and was promoted to Major in 1992.

Major Swinney exhibited thoughtfulness and compassion for people in the community he came in touch with. He reached out to those in trouble with a steady hand supported by his Christian belief of loving one's neighbor.

Mr. Speaker, I ask you to join me in saluting the family of Major Ned Swinney for the outstanding contributions he made to the world of law enforcement.

A SPECIAL TRIBUTE TO BRIAN C. VANVALKENBURG ON HIS APPOINTMENT TO ATTEND THE U.S. MILITARY ACADEMY AT WEST POINT, NY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Brian C. VanValkenburg. Brian has recently accepted his offer of appointment to the United States Military Academy at West Point, New York, and will be joining the incoming Cadet Class of 2002.

Very soon, Brian will be graduating from Vermilion High School, and will begin preparing for one of the most challenging, rewarding, and educational experiences of his life: his four years at West Point.

While attending Vermilion High School, Brian distinguished himself as an outstanding student and a very fine student-athlete. In the classroom, Brian's academic successes are outstanding, as he has attained a 3.77 grade point average, placing him tenth in his class of 194 students.

Brian has been active in the National Honor Society, and has participated in the National Latin Exam. In addition, Brian has shown himself to be a leader with his election to president of his class during his junior year. On the fields of competition, Brian was a member of the Vermilion Sailors Varsity Football Team.

Mr. Speaker, I am pleased to have the opportunity to nominate Brian for appointment to the United States Military Academy. I am certain he will do very well. I would ask my colleagues to stand and join me in paying special tribute to Brian VanValkenburg, and in wishing him well in all of his future endeavors.

TRIBUTE TO NAT BINGHAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MILLER of California. Mr. Speaker, I would like to pay tribute to Nat Bingham, an advocate for the fish and the fishermen on the West Coast, whose untimely death earlier this month has left a void so large, it will be difficult, if not impossible, to fill. His list of accomplishments on behalf of the fish and forests was long and varied, forging compromise between opposing groups for the good of the resource.

A commercial fisherman for over 30 years, his efforts in fisheries restoration began almost as long ago when, in his typical forward looking way, he headed projects in North Coast watersheds for salmon rearing and stream

restoration. He initiated the Sacramento winter-run salmon broodstock program and the Sacramento spring-run chinook working group. He was a critical voice in the debate leading to the enactment of the Central Valley Project Improvement Act, rallying the fishing industry to support our efforts to provide water for fish and wildlife.

He was active in coho salmon recovery efforts, and was a member of the Ecosystem Roundtable dealing with funding proposals for the Bay-Delta. He was a long-time member of the Commercial Salmon Stamp Committee and the California Advisory Committee on Salmon and Steelhead Trout. He also served as president of the Pacific Coast Federation of Fishermen's Association (PCFFA) for 9 years. Through it all he fought tirelessly for the industry and the restoration of the fish they depend on.

Nat gave up fishing a few years ago to work full-time on fish and fish habitat conservation as the Habitat Director for PCFFA. In this role, he was instrumental in the developing and building support for new habitat protection measures that were included in the most recent reauthorization of the Magnuson Act. He was a current member of the Pacific Fishery Management Council, and prior to be appointed to the Council he served as chairman of their Salmon Advisory panel. A proponent for protecting marine areas, he was to be the Pacific Council's representative on the upcoming Year of the Ocean Conference in Monterey.

Nat Bingham was an independent thinker, a strong moral voice, and a great conservationist who looked at the long term, not just the present. He would take on large industry—whether it was oil, timber, or agribusiness—the government, the environmental community, or even his own fishing industry when he felt they were wrong. He approached these challenges as a consensus builder not an adversary, however, trying to build bridges between opposing interests for the good of the resources and the people that depend on them.

There are some people who have been so important and have been doing the work for so long in their community that their value to the people, the community and the resource is impossible to measure. At the same time, they have been fighting the fight for so long, you can't remember what it was like before they came along. Nat Bingham was one of those people. His contributions to the protection of the resource and our environment were immeasurable, and the thought of fighting the good fight without him is almost impossible to imagine. We will continue to fight however, to save the salmon and their habitat. Nat would expect no less, and it is an appropriate way to honor his memory.

TRIBUTE TO BEN WILLIAMS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the outstanding career of an educator in our community. A lifelong educator with the Toledo Public School system, Ben Williams will be feted at a retirement event that will also serve as a scholarship dinner in his honor on May 23, 1998 in Toledo.

A product of the Toledo Public Schools himself, Ben began his career in 1968 at Woodward High School, where he taught general science and coached freshman boys basketball. Ben truly discovered his passion as a teacher and coach at Toledo's Scott High School in 1969, where he remained until retirement. While at Scott, he taught health education, became Chair of the Physical Education Department, and coached the junior varsity and varsity boys basketball teams. During his seventeen years as head coach, his teams have won an amazing ten City Championships, and last year, the Scott Bulldogs won the Ohio State Championship. No doubt, the Bulldogs with this victory expressed their appreciation to him for his lifelong dedication to them. Eight of the teams under his leadership have ranked among the top ten Ohio AAA teams. His accomplishments earned Ben the designation of AAA Boys Basketball Coach of the Year.

Ben's success as a basketball coach has not been simply about fostering technical skills and teamwork on the basketball court. States a noted local sportscaster, ''While building the area's top basketball program at Scott, Ben has not let his players forget why they are in school. He not only insists on athletic achievement but academic efforts as well.'' Indeed, 90 percent of his players have gone on to college! Truly a mentor to his players, Ben puts his philosophy into action, explaining ''Most of our boys come from broken homes. I spend more time with them than the typical coach. I have a year-round relationship with them. We try to keep basketball in perspective. Academic achievement and personality improvement are the most important things.''

Ben also founded the City of Toledo Recreation Department's Annual Early Bird Basketball Clinic, serving over 600 children in each of the 8 years he directed the program. He has directed various recreation and youth offices in both Toledo and Erie, Pennsylvania. Finally, he worked with the University of Toledo's Summer Sports Program for 13 years, from 1970 to 1983.

Ben Williams is a graduate of Bowling Green State University, where he earned both his undergraduate and graduate degrees. He has also worked toward his doctorate at Gannon College in Pennsylvania, George Washington University, and Sir George William's University in Montreal. He holds a teaching award from Phi Beta Kappa, and has received many other awards for his exemplary teaching and service to our community.

In addition to an extraordinarily successful teaching and coaching career, Ben is happily married to Arielle. They are the proud and earnest parents of Robert, Kristie, and Leah.

Perhaps Ben Williams' proudest professional moment came when Scott High School last year renamed its field house in his honor. In accepting the tribute, Ben spoke of his State Championship team. ''This close unit has shown what discipline, hard work, and caring can do for all who wish to beat the odds.'' Indeed these stand as fitting words by which we all might live.

SUPPORTING H.R. 59

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 59, the National Right To Work Act. This bill would repeal those sections of Federal law which allow big labor to force hard-working Americans to pay union dues under the threat of losing their jobs.

This is un-American. Yet, it happens to thousands of men and women every single month of the year. Union bosses take the hard-earned money of workers who have no legal say in the matter.

Mr. Speaker, it was Congress who created this problem. We gave big labor the privilege and authority to take this money away, by taking away the worker's freedom to choose whether or not to pay union dues.

Congress must now give that freedom back to American workers.

H.R. 59 empowers Americans and gives them the choice that never should have been taken from them in the first place.

I urge my colleagues to support H.R. 59, the National Right To Work Act.

INTRODUCTION OF THE JUDICIAL ANTI-NEPOTISM ACT

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Ms. DUNN. Mr. Speaker, today I am introducing legislation to preserve the institutional integrity of the federal courts. This bill will clarify the 1922 anti-nepotism law (section 458 of Title 28 of the United States Code) which prohibits the appointment or employment in any court of individuals who are related within the degree of first cousin to any justice or judge of that court.

Currently, there is disagreement about whether this anti-nepotism law applies simply to judges' personnel decisions or whether it includes presidential appointments to judicial offices in federal courts.

I believe that the law must apply to both if courts are to remain unbiased. It is the duty of Congress to ensure that the credibility of our judicial branch is not compromised. That is why I am introducing the Judicial Anti-nepotism Act. This legislation clarifies the intent of the original law to preclude the appointment of a judge to a court if that person is related within the degree of first cousin to any judge, including a judge retired in senior status, of that same court.

If the law were not to apply to the familial relationship of judges, close family members would be able to serve concurrently on the same court, causing litigants to lose confidence in a system clearly designed to be objective and impartial. We simply cannot afford to let this happen. We must assure that federal judges are independent from any outside influence in order for their decisions to be completely impartial and based only on the laws and facts of the cases.

I encourage my colleagues to support this bill and help uphold the just character and

composition of one of our most revered institutions.

CELEBRATION OF THE VALLEY BANK

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. THOMPSON. Mr. Speaker, I rise today to celebrate as well as acknowledge the 100th birthday of The Valley Bank in Greenwood, Mississippi. Originally founded in 1898 in Rosedale, Mississippi, The Valley Bank has persevered, persisted, prevailed and prospered into a system of community banks with eleven locations across the Mississippi Delta extending into the states' capital at Jackson, one of the fastest growing cities in Mississippi.

The Valley Bank was founded by David Reinach, W.B. Roberts, Saint Kohn, Isaac Kohn, Godfrey Frank, J.L. Wilson, and G.J. McGehee, Jr. It was the vision of these seven aspiring gentlemen to create a financial institution in the Mississippi Delta. With this vision, The Valley Bank has grown to become a well known bank throughout the country. In 1997, The Valley Bank ranked 78th out of 14,850 banks in the nation on its return on assets and return on equity to stockholders. In addition to that, The Valley Bank ranked #1 out of 126 banks in Mississippi in both loan volume and dollar amount of loans made under the Farm Service Agency and in business and industry loans.

Mr. Speaker, in this day of mega-mergers where banks are being bought and sold, consolidated, and reaching across state lines, The Valley Bank remains one of the few banks that continues the tradition of personal service, customer satisfaction and community involvement. It is refreshing to know that The Valley Bank today is as old-fashioned as it was 100 years ago when it first opened its doors for business.

Mr. Speaker, please join me in celebrating the 100th birthday of The Valley Bank. May it prosper for an additional 100 years based on the principle of dedicated personal service.

CONGRATULATIONS TO SOUTHERN HIGH SCHOOL'S MOCK TRIAL TEAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. UNDERWOOD. Mr. Speaker, I would like to take this opportunity to congratulate the members of Southern High School's mock trial team for their outstanding performance in the Mock Trial National Championship held in Albuquerque, New Mexico from May 8–9. They placed second in a competitive program involving 45 state teams. Not only did Southern High School take second honors, Leslie Travis, a fourth year Southern High student, was also awarded the distinction of best attorney in the competition.

Mr. Speaker, the people of Guam are extremely proud of Ria Baldevia, Brian Biacan, Sharon Cadag, Leona Cruz, Vera Lynn Gozum, Leanna Libby, Charles McJohn, Denise Mendiola, John Moorhead, Pergrin Pervez, Teddy Salas, Michael San Nicolas, Aubrey Santos, Tricia Ann Santos, Leslie Travis, and Joshua Tyquiengco not only for their exceptional achievement, but also for their admirable performance as Guam's ambassadors in this national contest.

Mock trial is an arduous competition which calls on a team's creative intelligence, logical reasoning, and quick wit to outmatch the other competitors. Southern High School's performance illustrates what can be accomplished through hard work, dedication and teamwork. On behalf of the people of Guam, I congratulate Southern High School and the members of their mock trial team for their magnificent achievement.

IN HONOR OF THIRD FEDERAL SAVINGS ASSOCIATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. KUCINICH. Mr. Speaker, I rise to honor Third Federal Savings Association, which has served as a leader in Cleveland's banking community for sixty years.

Third Federal Savings continues to build upon its legacy as a strong civic institution by spearheading the Broadway Development Initiative, a group of 100 organizations dedicated to the revitalization of Cleveland's Broadway-Slavic Village area. The initiative includes a diverse assortment of community groups from the Catholic Diocese of Cleveland to government entities.

The crown jewel of the redevelopment area will be Third Federal's $17.3 million operations center, which will be completed in November 1999. In addition, the bank has pledged to invest $10 million in the community within the next ten years.

Third Federal will also ally with Greater Cleveland Habitat for Humanity in combating the problem of homelessness, donating $10 to the organization for every mortgage loan made by the bank. This partnership will finally make possible the development of the Worsted Woolen Mills site, the former location of a factory destroyed by fire in 1993. Prior to Third Federal's donation, Greater Cleveland Habitat had trouble finding financial backing.

My fellow colleagues, join me in recognizing Third Federal Savings Association's commitment to its surrounding community and in congratulating the bank of its 60th Anniversary.

IN HONOR OF THE 32ND ANNIVERSARY OF THE INDEPENDENCE OF GUYANA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 21, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the New Jersey Arya Samaj Mandir, Inc. for their efforts to commemorate the 32nd anniversary of the Independence of the Republic of Guyana. On Tuesday, May 26, they will be hosting their third annual commemorative flag-raising for the independence of Guyana in the Council Chambers at City Hall in Jersey City. New Jersey Arya Samaj Mandir, Inc. was incorporated in 1988 and aims to preserve and promote Arya/Hindu culture in New Jersey.

The history of Guyana parallels that of the United States in several ways. Similar to the U.S., Christopher Columbus was the first European to see the Guyana coast in 1498. Guyana is also a land of immigrants with citizens tracing their roots to India, Portugal, China, and Africa. Guyana is the only country on the mainland of South America with English as its official language.

Guyana also shares with the United States the experience of gaining independence from the colonial interests of Europe. The Dutch, the French, and the British have each occupied Guyana at various times between 1621 and 1966. In 1992, Guyana successfully instituted free and fair elections.

In closing, I would like to thank the New Jersey Arya Samaj Mandir, Inc. for their flag-raising ceremony and congratulate the Republic of Guyana for its 32nd year of independence

Daily Digest

HIGHLIGHTS

The House passed H.R. 3616, National Defense Authorization Act for Fiscal Year 1999.

Senate

Chamber Action

Routine Proceedings, pages S5247–S5358

Measures Introduced: Seven bills and three resolutions were introduced, as follows: S. 2105–2111, S. Res. 233–234, and S. Con. Res. 98. **Page S5322**

Measures Reported: Reports were made as follows:

H.R. 1151, to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions, with an amendment in the nature of a substitute. (S. Rept. No. 105–193)

H.R. 824, to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the ''Howard T. Markey National Courts Building''.

S. 1298, to designate a Federal building located in Florence, Alabama, as the ''Justice John McKinley Federal Building''.

S. 1355, to designate the United States courthouse located in New Haven, Connecticut, as the ''Richard C. Lee United States Courthouse''.

S. 1800, to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse''.

S. 1892, to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.

S. 1898, to designate the Federal building located at 1301 Clay Street in Oakland, California, as the ''Ronald V. Dellums Federal Building''.

S. 2022, to provide for the improvement of interstate criminal justice identification, information, communications, and forensics, with an amendment.

S. 2032, to designate the Federal building in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building''.

S. 2073, to authorize appropriations for the National Center for Missing and Exploited Children, with an amendment. **Page S5321**

Measures Passed:

Congressional Adjournment: Senate agreed to S. Con. Res. 98, providing for a conditional adjournment or recess of the Senate and House of Representatives. **Page S5280**

National Emergency Medical Services Memorial Service: Senate agreed to H. Con. Res. 171, declaring the memorial service sponsored by the National Emergency Medical Services (EMS) Memorial Service Board of Directors to honor emergency medical services personnel to be the ''National Emergency Medical Services Memorial Service''. **Page S5356**

U.S. Agriculture Import Restrictions: Committee on Finance was discharged from consideration of S. Con. Res. 73, expressing the sense of Congress that the European Union is unfairly restricting the importation of United States agriculture products and the elimination of such restrictions should be a top priority in trade negotiations with the European Union, and the resolution was then agreed to. **Page S5356**

Restitution Subsidies Waiver: Committee on Finance was discharged from consideration of S. Res. 232, to express the sense of the Senate that the European Union should waive the penalty for failure to use restitution subsidies for barley to the United States and ensure that restitution or other subsidies are not used for similar sales in the United States and that the President, the United States Trade Representative, and the Secretary of Agriculture should conduct an investigation of and report on the sale and subsidies, and the resolution was then agreed to. **Pages S5356–57**

Testimony and Document Production Authorization: Senate agreed to S. Res. 233, to authorize testimony and document production and representation of Senate employees in *People* v. *James Eugene Arenas.* **Page S5357**

Honoring Stuart Balderson: Senate agreed to S. Res. 234, to honor Stuart Balderson. **Page S5358**

Universal Tobacco Settlement Act: Senate continued consideration of S. 1415, to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, and to redress the adverse health effects of tobacco use, with a modified committee amendment in the nature of a substitute (Amendment No. 2420), taking action on amendments proposed thereto, as follows: **Pages S5247–S5314**

Pending:

Gregg/Leahy Amendment No. 2433 (to Amendment No. 2420), to modify the provisions relating to civil liability for tobacco manufacturers. (By 37 yeas to 61 nays, two responding present (Vote No. 145), Senate failed to table the amendment.) **Pages S5248–69, S5280–91**

Gregg/Leahy Amendment No. 2434 (to Amendment No. 2420), in the nature of a substitute. (The amendment fell when Amendment No. 2433, listed above, was tabled.) **Pages S5270–80, S5291**

Gramm Motion to recommit the bill to the Committee on Finance with instructions to report back forthwith, with Amendment No. 2436, to modify the provisions relating to civil liability for tobacco manufacturers, and to eliminate the marriage penalty reflected in the standard deduction and to ensure the earned income credit takes into account the elimination of such penalty. **Pages S5291–93**

Daschle (for Durbin) Amendment No. 2437 (to Amendment No. 2436), relating to reductions in underaged tobacco usage. **Pages S5292–93**

Daschle (for Durbin) Amendment No. 2438 (to Amendment No. 2437), of a perfecting nature. **Pages S5292–93**

Iran Missile Proliferation Sanctions Act: Pursuant to the order of April 3, 1998, Senate will consider H.R. 2709, to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, on Friday, May 22, 1998. **Pages S5308–09, S5358**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

Protocol to Extradition Treaty with Mexico (Treaty Doc. 105–46).

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and was ordered to be printed. **Page S5357**

Messages from the President: Senate received the following messages from the President of the United States:

Transmitting, a report concerning the ratification of the Protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic; to the Committee on Foreign Relations. (PM–129). **Page S5317**

Transmitting a report concerning the ratification of the Protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic; to the Committee on Foreign Relations. (PM–130). **Pages S5317–18**

Transmitting a report concerning the ratification of the Protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic; to the Committee on Foreign Relations. (PM–131). **Page S5318**

Transmitting the report of the National Endowment for the Humanities for calendar year 1997; referred to the Committee on Labor and Human Resources. (PM–132). **Page S5318**

Nominations Confirmed: Senate confirmed the following nominations:

Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.

Jeanne Hurley Simon, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2002.

David R. Oliver, of Idaho, to be Deputy Under Secretary of Defense for Acquisition and Technology.

William James Ivey, of Tennessee, to be Chairperson of the National Endowment for the Arts for a term of four years.

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2004.

Thomas Ehrlich, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years.

Dorothy A. Johnson, of Michigan, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years.

William Joseph Burns, of Pennsylvania, to be Ambassador to the Hashemite Kingdom of Jordan.

Ryan Clark Crocker, of Washington, to be Ambassador to the Syrian Arab Republic.

Routine lists in the Foreign Service. **Pages S5269, S5355–56, S5358**

Nominations Received: Senate received the following nominations:

Richard M. Berman, of New York, to be United States District Judge for the Southern District of New York.

Donovan W. Frank, of Minnesota, to be United States District Judge for the District of Minnesota.

Colleen McMahon, of New York, to be United States District Judge for the Southern District of New York.

William H. Pauley III, of New York, to be United States District Judge for the Southern District of New York.

Michael S. Dukakis, of Massachusetts, to be a Member of the Reform Board (AMTRAK) for a term of five years.

Sylvia de Leon, of Texas, to be a Member of the Reform Board (AMTRAK) for a term of five years.

Linwood Holton, of Virginia, to be a Member of the Reform Board (AMTRAK) for a term of five years.

Amy M. Rosen, of New Jersey, to be a Member of the Reform Board (AMTRAK) for a term of five years.

John Robert Smith, of Mississippi, to be a Member of the Reform Board (AMTRAK) for a term of five years. (New Position)

Tommy G. Thompson, of Wisconsin, to be a Member of the Reform Board (AMTRAK) for a term of five years. (New Position) **Page S5358**

Messages From the President: **Pages S5317–18**

Messages From the House: **Page S5318**

Measures Referred: **Page S5318**

Communications: **Pages S5318–21**

Executive Reports of Committees: **Pages S5321–22**

Statements on Introduced Bills: **Pages S5322–33**

Additional Cosponsors: **Pages S5333–34**

Amendments Submitted: **Pages S5334–42**

Notices of Hearings: **Page S5342**

Authority for Committees: **Pages S5342–43**

Additional Statements: **Pages S5343–55**

Record Votes: One record vote was taken today. (Total–145) **Pages S5290–91**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 8:10 p.m., until 9:30 a.m., on Friday, May 22, 1998. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S5358.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported 1,086 military nominations in the Army, Navy, Marine Corps, and Air Force.

ALTERNATIVE AND RENEWABLE FUELS

Committee on Energy and Natural Resources: Subcommittee on Energy Research, Development, Production and Regulation concluded hearings on the following bills:

S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, after receiving testimony from Thomas J. Gross, Deputy Assistant Secretary of Energy/Office of Transportation Technologies, Energy Efficiency, and Renewable Energy; Mark Berg, Tripp, South Dakota, on behalf of the American Soybean Association; Gilbert P. Sperling, Natural Gas Vehicle Coalition, Rockville, Maryland; Joe Anderson, Potlatch, Idaho, on behalf of the U.S. Canola Association; Christopher D. Amos, City of St. Louis Board of Public Service/Equipment Services Division, St. Louis, Missouri; and Russell T. Teall, Biodiesel Development Corporation, Marathon Key, Florida; and

S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources, after receiving testimony from Robert Kripowicz, Principal Deputy Assistant Secretary of Energy/Office of Fossil Energy; Timothy S. Collett, Research Geologist, United States Geological Survey, Department of the Interior; Charles K. Paull, University of North Carolina, Chapel Hill; and Arthur H. Johnson, Chevron USA Production Company, New Orleans, Louisiana, on behalf of Chevron, Natural Gas Supply Association, and the National Ocean Industries Association.

BUSINESS MEETING

Committee on Environment and Public Works: Committee ordered favorably reported the following measures:

S. 1677, to authorize funds through fiscal year 2003 for the North American Wetlands Conservation Act and the Partnerships for Wildlife Act;

S. 2095, to amend and authorize funds through fiscal year 2003 for the National Fish and Wildlife Foundation Establishment Act, with an amendment;

S. 627, to authorize funds for fiscal years 1997 through 2002 for the African Elephant Conservation Act;

H.R. 39, to authorize funds for fiscal years 1997 through 2002 for the African Elephant Conservation Act;

S. 1104, to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System;

S. 2038, to amend the John F. Kennedy Center Act to authorize funds through fiscal year 2009 for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance, with an amendment in the nature of a substitute;

H.R. 824, to redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the ''Howard T. Markey National Courts Building'';

S. 1800, to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse'';

S. 1898, to designate the Federal building located at 1301 Clay Street in Oakland, California, as the ''Ronald V. Dellums Federal Building'';

S. 1355, to designate the United States courthouse located in New Haven, Connecticut, as the ''Richard C. Lee United States Courthouse'';

S. 1298, to designate a Federal building located in Florence, Alabama, as the ''Justice John McKinley Federal Building'';

S. 2032, to designate the Federal building in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building'';

S. 2090, to extend the authority of the Nuclear Regulatory Commission to collect fees through 2003;

S. 1531, to deauthorize certain portions of the project for navigation, Bass Harbor, Maine; and

S. 1532, to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine.

IRAQ

Committee on Foreign Relations/Committee on Energy and Natural Resources: Committees concluded joint hearings to examine the future and effectiveness of United States policy and sanctions toward Iraq, after receiving testimony from Thomas R. Pickering, Under Secretary of State for Political Affairs; Richard N. Perle, former Assistant Secretary of Defense for International Security; David A. Kay, Science Applications International Corp, McLean, Virginia, former UNSCOM Nuclear Inspector; and Kenneth M. Pollack, Washington Institute for Near East Policy, Washington, D.C.

NOMINATION

Committee on Foreign Relations: Committee concluded hearings on the nomination of Jeffrey Davidow, of Virginia, to be Ambassador to Mexico, after the nominee testified and answered questions in his own behalf.

FOREIGN ICBM AND SATELLITE PROGRAMS

Committee on Governmental Affairs: Subcommittee on International Security, Proliferation and Federal Services held hearings to examine how a foreign country's satellite and Intercontinental Ballistic Missiles (ICBM) programs could benefit from launching United States commercial satellites, and whether the administration's export control policy is adequate to prevent technology transfers that endanger America, focusing on the evolution of U.S. commercial satellite export policies and whether military benefits are derived by China when it launches U.S.-built satellites, receiving testimony from William R. Graham, National Security Research, Inc., Arlington, Virginia; and John Pike, Federation of American Scientists, and William Schneider, Jr., Hudson Institute, both of Washington, D.C.

Hearings were recessed subject to call.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

The nominations of William A. Fletcher, of California, to be United States Circuit Judge for the Ninth Circuit, Rosemary S. Pooler and Robert D. Sack, both of New York, each to be United States Circuit Judge for the Second Circuit, Victoria A. Roberts, to be United States District Judge for the Eastern District of Michigan, Richard W. Roberts, to be United States District Judge for the District of Columbia, Ronnie L. White, to be United States District Judge for the Eastern District of Missouri, and Q. Todd Dickinson, of Pennsylvania, to be Deputy Commissioner of Patents and Trademarks, Department of Commerce;

S. 1892, to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court;

S. 1301, to amend title 11, United States Code, to provide for consumer bankruptcy protection, with amendments;

S. 2022, to provide for the improvement of interstate criminal justice identification, information,

communications, and forensics, with an amendment; and

S. 2073, to authorize appropriations for the National Center for Missing and Exploited Children, with an amendment.

GENETIC INFORMATION AND HEALTH CARE

Committee on Labor and Human Resources: Committee concluded hearings on proposals to prohibit health care discrimination based on genetic information, including related measures S. 89 and S. 422, after receiving testimony from Senators Domenici and Snowe; Francis S. Collins, Director, National Human Genome Research Institute, National Institutes of Health, Department of Health and Human Services; Colorado Commissioner of Insurance Jack Ehnes, Denver, on behalf of the National Association of Insurance Commissioners; Christine Brunswick, National Breast Cancer Coalition, and Mary Nell Lehnhard, BlueCross BlueShield Association, both of Washington, D.C.; Judith L. Palkovitz, Hadassah, New York, New York; Jodi Klein Rucquoi, Yale University School of Medicine/Department of Genetics, New Haven, Connecticut; and Joanne Denise, Northwestern Mutual, Nashville, Tennessee, on behalf of the National Association of Health Underwriters.

INDIAN HEALTH CARE

Committee on Indian Affairs: Committee concluded oversight hearings to examine the state of Indian health and the availability of resources to meet their health care needs, after receiving testimony from David Satcher, Surgeon General of the United States and Assistant Secretary for Health, and Michael H. Trujillo, Assistant Surgeon General, and Director, Indian Health Service, both of the Department of Health and Human Services; Ralph Forquera, Seattle Indian Health Board, Seattle, Washington; Earl Old Person, Blackfeet Tribal Business Council, Browning, Montana; Julia A. Davis, Northwest Portland Area Indian Health Board, Portland, Oregon; W. Ron Allen, National Congress of American Indians, Craig Winkel, American College of Obstetricians and Gynecologists, Michael E. Bird, American Public Health Association, and Michael R. Sinclair, Henry J. Kaiser Family Foundation, all of Washington, D.C.; Buford Rolin, National Indian Health Board, Denver, Colorado; Ray Begay, Association of American Indian Physicians, Oklahoma City, Oklahoma; Ron Morton, San Diego American Indian Health Center, and Jane Dumas, both of San Diego, California, on behalf of the National Council of Urban Indian Health; Eugene DeLorme, University of North Dakota School of Medicine and Health Sciences, Grand Forks; Kathryn Manness, Feather River Indian Health Clinic, Oroville, California, on behalf of the National Indian Child Welfare Association; Ronald M. Rowell, National Native American AIDS Prevention Center, Oakland, California; Alvin Windy Boy, Montana-Wyoming Area Indian Health Board, Box Elder, on behalf of the Self-Governance Task Force; Bill Anoatubby, Chickasaw Nation, Ada, Oklahoma; Russell D. Mason, Sr., Three Affiliated Tribes of the Fort Berthold Reservation of North Dakota, New Town; Mary V. Thomas, Gila River Indian Community, Sacaton, Arizona; Daniel Eddy, Jr., Colorado River Indian Tribes, Parker, Arizona; Sandra Ninham, Oneida Tribe of Indians of Wisconsin, Oneida; Joseph C. Saulque, Advisory Council on California Indian Policy, Sacramento; Margaret Terrance, St. Regis Mohawk Tribe Health Services, Hogansburg, New York; Genevieve Jackson, Navajo Nation Council, Window Rock, Arizona; Joann Bodurtha, Virginia Commonwealth University, Richmond, on behalf of the American Academy of Pediatrics; Murray D. Sykes, Silver Spring, Maryland, on behalf of the American Dental Association; Arthur McDonald, Morningstar Memorial Foundation, Lame Deer, Montana, on behalf of the American Psychological Association; Thurman Johnson, Shiprock, New Mexico; Gloria Harrison, Red Valley, Arizona; Jessie Rae Taken Alive, McLaughlin, South Dakota; and George Pickup, Kansas, Oklahoma.

NOMINATION

Select Committee on Intelligence: Committee concluded hearings on the nomination of Joan Avalyn Dempsey, of Virginia, to be Deputy Director of Central Intelligence for Community Management, after the nominee testified and answered questions in her own behalf.

House of Representatives

Chamber Action

Bills Introduced: 18 public bills, H.R. 3925–3942; 2 private bills, H.R. 3943–3944; and 5 resolutions, H. Con. Res. 279–280, and H. Res. 443–444, 447,were introduced. **Pages H3742–43**

Reports Filed: Reports were filed as follows:

H.R. 1690, to amend title 28 of the United States Code regarding enforcement of child custody orders (H. Rept. 105–546);

H. Res. 445, waiving a requirement of clause 4(b), rule XI with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 105–547); and

H. Res. 446, disposing of the conference report to accompany S. 1150, to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs (H. Rept. 105–548). **Page H3742**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Bonilla to act as Speaker pro tempore for today. **Page H3627**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rabbi Moshe Bomzer of Albany, New York. **Page H3627**

Journal: The House agreed to the Speaker's approval of the Journal of Wednesday, May 20 by yea and nay vote of 339 yeas to 58 nays with 2 voting ''present'', Roll No. 175. **Pages H3627–28**

Member Sworn: Representative-elect Robert A. Brady presented himself in the well of the House and was administered the oath of office by the Speaker. **Page H3628**

President's Assertions of Executive Privilege: The House agreed to H. Res. 432, expressing the sense of the House of Representatives concerning the President's assertions of executive privilege by yea and nay vote of 259 yeas to 157 nays with 6 voting ''present'', Roll No. 176. **Pages H3640–46**

Cooperation with Congressional Investigations: The House agreed to H. Res. 433, calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations by yea and nay vote of 342 yeas to 69 nays with 12 voting ''present'', Roll No. 177. **Pages H3646–66**

H. Res. 436, the rule that provided for consideration of both H. Res. 432 and H. Res. 433 was agreed to earlier by a voice vote. **Pages H3634–40**

Presidential Messages: Read the following messages from the President:

NATO Expansion: Message wherein he transmitted his certification that each of the governments of Poland, Hungary, and the Czech Republic are fully cooperating with U.S. efforts to obtain an accounting of captured and missing U.S. personnel from past military conflicts or Cold War incidents—referred to the Committee on International Relations and ordered printed (H. Doc. 105–256). **Page H3666**

National Endowment for the Humanities: Message wherein he transmitted the 32nd annual report of the National Endowment for the Humanities—referred to the Committee on Education and the Workforce. **Page H3733**

DOD Authorization: The House passed H.R. 3616, to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999 by a recorded vote of 357 ayes to 60 noes, Roll No. 183. Agreed to amend the title. (The House completed general debate on May 19 and began consideration of amendments on May 20). **Pages H3666–H3715**

Rejected the Frank of Massachusetts motion to recommit the bill to the Committee on National Security with instructions to report it back forthwith with an amendment that prohibits funding after December 31, 1998 for the deployment of U.S. Armed Forces to the Republic of Bosnia and Herzegovina unless a law has been enacted that explicitly authorizes the deployment by a recorded vote of 167 ayes to 251 noes, Roll No. 182. **Pages H3712–14**

Agreed To:

The Spence en bloc amendment consisting of H. Rept. 105–544 Part D amendments numbered 1 through 18, 21 through 38 and an amendment deemed printed by an order of the House on May 20: that clarifies limits State authority to tax compensation paid to certain individuals performing service in Ft. Campbell, Kentucky; seeks to enhance outdoor recreation development on military installations for disabled veterans, military dependents with disabilities, and other persons with disabilities; within 6 months of enactment requires certification and description of the system used to recover from commercial carriers the costs incurred by the Department; revises the time for submitting the annual report relating to the Buy American Act from 90 days

to 60 days; requires that all burial flags be wholly produced in the United States; transfers the title of the Youngstown Navy and Marine Corps Reserve facility to the city of Youngstown, Ohio; requires a DOD Inspector General investigation of actions relating to the 174th Fighter Wing of the New York Air National Guard; limits NATO expansion payments to $2 billion or 10 percent of the total cost, whichever is less over the next thirteen years; requires that military physicians possess unrestricted licenses and establishes a mechanism for ensuring the completion of continuing medical education requirements; reduces the retirement pay for enlisted members who are reduced in grade before retirement; prohibits the use of tritium produced in facilities licensed under the Atomic Energy Act for nuclear explosive purposes; requires a proposal by November 1, 1998 to establish an appeals process in cases of ClaimCheck denials of claims for health care services submitted by civilian providers; requires, in conjunction with the National Academy of Sciences, a study on the technology base of the Department of Defense; encourages existing cooperative working relationships between the Air Force Flight Test Center and the NASA Dryden Flight Research Center at Edwards Air Force Base and requires a joint report concerning the base alliance; makes the export of U.S. satellites subject to the licensing requirements established by the Arms Export Control Act; requires reports from the Arms Control and Disarmament Agency or State Department on arms control developments including information on the activities of various arms control treaty compliance forums; requires a schedule for implementation of best commercial inventory practices for the management of secondary supply items; requires the Secretary Of Commerce to release within 5 days to the CIA, DOD, or Energy Department any information relating to exports carried out with or without an export license; expresses the sense of Congress concerning the inability of members of the armed forces away from their main residence on active duty to exercise the capital gains relief for homeowners as provided in the 1997 Taxpayer Relief Act; adds Indigenous groups, such as the Hmong, Nung, Montagnard, Kahmer, HoaHao, and CaoDai combat forces, to the list of those who made contributions during the Vietnam conflict; protects funding for the two national launch ranges in California and Florida which support DOD and NASA space launch activities; expresses the sense of Congress regarding the establishment of a counter drug center in Panama; establishes an Office of River Protection and directs Hanford tank cleanup program reforms; allows a partnership arrangement to operate a hazardous materials management and emergency response training program; requires an annual report on private sector employees who provide services under contract for the Department of Defense; authorizes hardship duty pay on the basis of the nature of the duty rather than the location of the duty; expresses the sense of Congress concerning the New Parent Support Program and Military Families and requires a report on it; authorizes funding for the DOD portion of the Multi-Agency Next Generation Internet Program and specifies that it may only be authorized through the Defense authorization bill; establishes the Defense Against Weapons of Mass Destruction title to encourage better coordination and improve capabilities to respond to incidents involving weapons of mass destruction; expresses the sense of Congress that the President should direct the Secretaries of Defense, State, Energy, and the Administrator of EPA to assess the feasibility of a privately funded international project to exchange information related to advanced nuclear waste remediation technologies; requires the restructuring of Theater High-Altitude Area Defense System acquisition strategy; requires that the authority to issue an objection concerning the export of supercomputers be executed at a specified level and requires that procedures maximize the ability to issue an objection with the 10 day time limit; increases the amount authorized for basic research and applied research by $1.1 billion; transfers oversight of the program for assessment of alternative technologies for demilitarization of assembled chemical weapons to the Army and authorizes $12.6 million for the program; authorizes the conveyance of property at Fort Sheridan, Illinois to the City of Lake Forest, Illinois; requires a report on the rates of personnel retention by military services since 1989; and specifies requirements for the transfer of excess UH–1 Huey helicopters and AH–1 Cobra helicopters to foreign countries; **Pages H3666–84**

The Thornberry amendment that authorizes DOD to conduct a demonstration program for enrolling Medicare-eligible military retirees in the Federal Employees Health Benefits Program (agreed to by a recorded vote of 420 ayes to 1 noes with 1 voting "present;" **Pages H3684–94**

The Traficant amendment that authorizes the Secretary of Defense to assign members of the Armed Forces, under certain circumstances and subject to certain conditions, to assist the Immigration and Naturalization Service and the Customs Service in monitoring and patrolling our borders (agreed to by a recorded vote of 288 ayes to 132 noes, Roll No. 180); **Pages H3695–H3705**

The Gilman amendment that establishes reporting requirements for nuclear exports that are comparable to those in existing law for conventional arms; requires the Executive branch to submit to Congress

a report describing each such export and the basis for approval; provides for Congress to have 30 days to review the proposed license and use expedited procedures to enact a resolution of disapproval if necessary (agreed to by a recorded vote of 405 ayes to 9 noes, Roll No.181); **Pages H3705–07, H3710–11**

The Hunter amendment, as modified, that requires a study to assess the impact of the current micropurchase program and the advisability of increasing the purchase threshold; **Pages H3707–09**

The Taylor of Mississippi amendment that requires the Secretary of Defense to expand its drug testing program to all civilian employees; and **Pages H3709–10**

The Thomas amendment that provides for treatment of the State of California claim regarding the naval petroleum reserve numbered 1 and makes available amounts in the contingent fund for paying the claim. **Page H3710**

Rejected the Reyes amendment to the Traficant amendment that sought to require the Attorney General or the Secretary of the Treasury to submit a request to the Secretary of Defense prior to the assignment of armed forces personnel to assist the Immigration and Naturalization Service and Customs Service (rejected by a recorded vote of 179 ayes to 243 noes, Roll No. 179). **Pages H3702–05**

Rejected the Frank of Massachusetts motion to strike all after the enacting clause. **Pages H3694–95**

The Clerk was authorized in the engrossment of H.R. 3616 to correct section numbers, punctuation, cross references, table of contents, and to make other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill. **Page H3715**

H. Res. 441, the rule that is providing for the further consideration on the bill, was agreed to on May 20. Agreed today that during further consideration of the bill pursuant to the rule, the Thomas amendment be deemed to have been included as the last amendment printed in part D of H. Rept. 105–544, the report accompanying the rule. **Pages H3495–H3505, H3666**

BESTEA—Motion to Instruct Conferees: Rejected the Minge motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act, to ensure that spending for highways and transit programs authorized in the conference agreement on H.R. 2400 is fully paid for using estimates of the Congressional Budget Office, to reject the use of estimates from any other source, to reject any method of budgeting that departs from the budget enforcement principles currently in effect, or the use of the budget surplus to pay for spending on highways or transit programs by a recorded vote of 156 ayes to 251 noes with 2 voting ''present'', Roll No. 185. **Pages H3715–19, H3722**

BESTEA—Motion to Instruct Conferees: Rejected the Obey motion to instruct House conferees on H.R. 2400, Building Efficient Surface Transportation and Equity Act, to limit the aggregate number of earmarked highway demonstration projects included in the conference report on H.R. 2400 to a number that does not exceed the aggregate number of such highway demonstration projects earmarked during the 42 years since the enactment of the Highway Trust Fund in 1956 by a yea and nay vote of 77 yeas to 332 nays with 1 voting ''present'', Roll No. 184. **Pages H3719–22**

Campaign Finance Reform: The House agreed to H. Res. 442, the rule that is providing for consideration of H.J. Res. 119, proposing an amendment to the Constitution of the United States to limit campaign spending, and H.R. 2183, to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office. Agreed to order the previous question by a yea and nay vote of 208 yeas to 190 nays, Roll No. 186. **Pages H3722–33**

Recess: The House recessed at 11:59 p.m. and reconvened at 12:15 a.m. on Friday, May 22. **Page H3739**

Senate Messages: Messages received from the Senate today appear on pages H3628 and H3690.

Amendments: Amendments ordered printed pursuant to the rule appear on pages H3744–55.

Quorum Calls—Votes: Five yea and nay votes and seven recorded votes developed during the proceedings of the House today and appear on pages H3627–28, H3646, H3665–66, H3694, H3704–05, H3705, H3710–11, H3714, H3714–15, H3721–22, H3722, and H3732–33. There were no quorum calls.

Adjournment: Met at 10:00 a.m. and adjourned at 12:17 a.m. on Friday, May 22.

Committee Meetings

U.S. AGRICULTURE, ASIAN FINANCIAL CRISIS AND THE IMF

Committee on Agriculture: Held a hearing to review U.S. Agriculture, the Asian Financial Crisis, and the International Monetary Fund. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System; Robert E. Rubin, Secretary of the Treasury; and Dan Glickman, Secretary of Agriculture.

ELECTRONIC COMMERCE

Committee on Commerce: Subcommittee on Telecommunications, Trade, and Consumer Protection held a hearing on Electronic Commerce: Doing Business On-Line. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Education and the Workforce: Subcommittee on Early Childhood, Youth and Families approved for full Committee action the following measures: H. Res. 401, amended, expressing the sense of the House of Representatives that social promotion in America's schools should be ended and can be ended through the use of high-quality, proven programs and practices; H. Res. 399, amended, urging the Congress and the President to work to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act; H.R. 3254, IDEA Technical Amendments Act of 1998; H.R. 3871, amended, to amend the National School Lunch Act to provide children with increased access to food and nutrition assistance during the summer months; H.R. 3874, WIC Reauthorization Amendments of 1998; and H.R. 3892, to amend the Elementary and Secondary Act of 1965 to establish a program to help children and youth learn English.

MISCELLANEOUS MEASURES; COMMITTEE BUSINESS; RELEASING DEPOSITIONS

Committee on Government Reform and Oversight: Ordered reported the following bills: H.R. 3630, amended, to redesignate the facility of the United States Postal Service located at 9719 Candelaria Road, NE, in Albuquerque, New Mexico, as the ''Steven Schiff Post Office''; H.R. 3808, amended, to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, as the ''Carl D. Pursell Post Office''; H.R. 2798, to redesignate the building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, as the ''Nancy B. Jefferson Post Office Building''; H.R. 2799, to redesignate the building of the United States Postal Service located at 324 South Laramie Street, in Chicago, Illinois, as the ''Reverend Milton R. Brunson Post Office Building''; H.R. 1704, amended, Congressional Office of Regulatory Analysis Creation Act.

The Committee also approved the following: pending Committee business; and the release of 14 depositions regarding the campaign finance investigation.

2000 CENSUS OVERSIGHT

Committee on Government Reform and Oversight: Subcommittee on Census held a hearing on Oversight of the 2000 Census: Reviewing the Long and Short Form Questionnaires. Testimony was heard from Representatives Morella and Canady; and public witnesses.

ASIAN FINANCIAL CRISIS—TAIWAN'S POSITIVE ROLE

Committee on International Relations: Subcommittee on Asia and the Pacific approved for full Committee action amended H. Con. Res. 270, acknowledging the positive role of Taiwan in the current Asian financial crisis and affirming the support of the American people for peace and stability on the Taiwan Strait and security for Taiwan's democracy.

INTELLECTUAL PROPERTY RIGHTS

Committee on International Relations: Subcommittee on International Economic Policy and Trade held a hearing on Intellectual Property Rights: the Music and Film. Testimony was heard from Bruce Lehman, Assistant Secretary and Commissioner of Patents and Trademarks, Department of Commerce; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Held a hearing on the following bills: H.R. 2448, to provide protection from personal intrusion; and H.R. 3224, Privacy Protection Act of 1998. Testimony was heard from public witnesses.

CHILD CUSTODY PROTECTION ACT

Committee on the Judiciary: Subcommittee on the Constitution held a hearing on H.R. 3682, Child Custody Protection Act. Testimony was heard from Representatives Ros-Lehtinen, Oberstar and Smith of New Jersey; Robert Graci, Assistant Executive Deputy Attorney General, Law and Appeals, Criminal Law Division, Office of the Attorney General, State of Pennsylvania; and public witnesses.

TRADEMARK LEGISLATION; OVERSIGHT—TRADEMARK PROTECTION

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property on the following bills: H.R. 3891, Trademark Anticounterfeiting Act of 1998; and H.R. 3119, to amend the Trademark Act of 1946 with respect to the dilution of famous marks and an oversight hearing on issues in trademark protection and the impact of regulatory delay on patents. Testimony was heard from Representative Blunt; and public witnesses.

SUBPOENAS; OVERSIGHT—INS RESTRUCTURE PROPOSALS

Committee on the Judiciary: Subcommittee on Immigration and Claims approved the issuance of subpoenas regarding the investigation of the death of Esequiel Hernandez, Jr.

The Subcommittee also held an oversight hearing on Alternative Proposals to Restructure the Immigration and Naturalization Service. Testimony was heard from Representatives Rogers and Reyes; Doris Meissner, Commissioner, Immigration and Naturalization Service, Department of Justice; and public witnesses.

ROYALTY ENHANCEMENT ACT

Committee on Resources: Subcommittee on Energy and Mineral Resources continues hearings on H.R. 3334, Royalty Enhancement Act of 1998, (Part II). Testimony was heard from Cynthia Quarterman, Director, Minerals Management Service, Department of the Interior; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks and Public Lands approved for full Committee action the following measures: H.J. Res. 113, amended, approving the location of a Martin Luther King, Jr. Memorial in the Nation's Capitol; H.R. 1042, amended, to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to extend the Illinois and Michigan Canal Heritage Corridor Commission; H.R. 1894, to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years; H.R. 2223, amended, Education Land Grant Act; H.R. 2776, to amend the Act entitled ''An Act to provide for the establishment of the Morristown National Historical Park in the State of New Jersey, and for other purposes'' to authorize the acquisition of property known as the Warren property; H.R. 2993, amended, to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units; and H.R. 3047, amended, to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas, by 16 acres.

CONFERENCE REPORT ON AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Committee on Rules: Granted, by vote of 7 to 4, a rule waiving all points of order against the conference report [except those arising under clause 3 of rule XXVIII (pertaining to the scope of the conference) and predicated on provisions in subtitle A of title V (relating to the Food Stamp Program)] on S. 1150, Agricultural Research, Extension, and Education Reform Act of 1998, and against its consideration except those arising under section 425 of the Congressional Budget Act (relating to Unfunded Mandates)]. The rule also provides that if a point of order against the conference report is sustained for failure to comply with clause 3 or rule XXVIII the conference report shall be considered as rejected and the pending question shall be whether the House shall recede from its amendment and agree to an amendment to the Senate bill consisting of the text of the conference report as modified. Testimony was heard from Chairman Smith of Oregon, and Representatives Smith of Texas and Stenholm.

EXPEDITED PROCEDURES—SAME DAY CONSIDERATION OF RULE

Committee on Rules: Granted, by voice vote, a rule waiving clause 4(b) of rule XI (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The waiver applies to a special rule reported on May 22, 1998, providing for consideration or disposition of H.R. 2400, BESTEA, an amendment thereto, a conference report thereon, or an amendment reported in disagreement from a conference thereon.

DOE LABS—EXTERNAL REGULATION

Committee on Science: Subcommittee on Basic Research and the Subcommittee on Energy and Environment held a joint oversight hearing on External Regulation of DOE Labs: Status of OSHA and NRC Pilot Programs. Testimony was heard from Elizabeth Moler, Deputy Secretary, Department of Energy; Shirley A. Jackson, Chairman, NRC; Charles N. Jeffress, Assistant Secretary, Occupational Safety and Health, Department of Labor; and Victor S. Rezendes, Director, Energy, Natural Resources, and Science Issues, Resources, Community, and Economic Development Division, GAO.

OVERSIGHT—ASTEROIDS

Committee on Science: Subcommittee on Space and Aeronautics held an oversight hearing on Asteroids: Perils and Opportunities. Testimony was heard from Carl Pilcher, Science Director, Solar System Exploration, NASA; Gregory Canavan, Senior Scientist, Los Alamos National Laboratory; and public witnesses.

ENTREPRENEURIAL EDUCATION

Committee on Small Business: Subcommittee on Empowerment held a hearing on entrepreneurial education. Testimony was heard from public witnesses.

FUTURE OF SOCIAL SECURITY

Committee on Ways and Means: Subcommittee on Social Security continued hearings on the Future of Social Security for this Generation and the Next, with emphasis on proposals affecting Federal, State, and Local Government Employees. Testimony was heard from Representatives Jefferson and Frank of Massachusetts; Cynthia Fagnoni, Director, Income Security Issues, Health, Education, and Human Services Division, GAO; Geoffrey Kollmann, Specialist in Social Legislation, Education and Public Welfare Division, Congressional Research Service, Library of Congress; and public witnesses.

BILL VETOED

S. 1502, the ''District of Columbia Student Opportunity Scholarship Act''. Vetoed May 20, 1998.

COMMITTEE MEETINGS FOR FRIDAY, MAY 22, 1998

Senate

No meetings are scheduled.

House

Committee on Rules, to consider H.R. 3433, Ticket to Work and Self-Sufficiency Act of 1998, 9:30 a.m., H–313 Capitol.

Next Meeting of the SENATE

9:30 a.m., Friday, May 22

Senate Chamber

Program for Friday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will consider H.R. 2709, Iran Missile Proliferation Sanctions Act.

Senate may also consider the conference report on H.R. 2400, Intermodal Surface Transportation Act (ISTEA).

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Friday, May 22

House Chamber

Program for Friday: Consideration of Conference Report on S. 1150, Agricultural Research, Extension, and Education Reform Act (subject to a rule);

Consideration of H.R. 2183, Bipartisan Campaign Integrity Act of 1997 (Two Hours of General Debate); and

Consideration of H.R. 2400, Building Efficient Surface Transportation and Equity Act Conference Report (Subject to a Rule).

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